

IN THE HIGH COURT OF JUDICATURE; AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

WRIT PETITION No.14599 of 2015

BETWEEN

Muliki Sambaiah,
S/o. Late Munaiah,
r/o. Takkellapadu Vilalge, Pedakakani Mandal,
Guntur District.
and 10 others.

Petitioners

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AND

The State of Andhra Pradesh,
Rep.by its Principal Secretary to Government,
Irrigation and CAD Department, Secretariat,
Hyderabad,
and 6 others.

Respondents

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DATE OF JUDGMENT PRONOUNCED: 31.07.2015.

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

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| 1. Whether reports of Local newspapers
may be allowed to see the judgments? | YES/NO |
| 2. Whether the copies of judgments may be
marked to Law Reporters/Journals. | YES/NO |
| 3. Whether their Ladyship/Lordship wish to
see the fair copy of the Judgment ? | YES/NO. |

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No.14599 of 2015

ORDER:

This writ petition was filed by 11 petitioners claiming to have been cultivating the land in Survey No.296 of Takkellapadu Village, Pedakakani Mandal, Guntur District by virtue of temporary pattas granted to their ancestors in Rc.No.2410/76-B3, dated 28.07.1976 in respect of a total extent of 13.48 cents. Some of the petitioners have

obtained loans for cultivation from the agricultural society and were cultivating the land. While so, the Government has taken a policy decision to implement a programme under "Neeru-Chettu" in order to protect the water resources by de-silting the tanks. When the respondents were taking up the digging activity on 09.05.2015 without issuing any notice to the petitioners, the present writ petition is filed.

2. This Court, by order dated 14.05.2015, ordered that *status quo* be maintained with regard to the possession in respect of the land to an extent of 13.48 cents in Survey No.296 of Takkellapadu Village. Thereafter, the Government filed W.V.M.P.No.1758 of 2015 seeking vacation of the interim order dated 14.05.2015. In-charge Sarpanch of Ramachandrapalem Grampanchayat, Pedakakani Mandal, also filed W.V.M.P.No.25637 of 2015 to implead him as seventh respondent in the writ petition and also to vacate the interim order dated 14.05.2015. Apart from that the Tahsildar, Pedakakani Mandal also filed counter affidavit.

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3. The counter affidavit of Tahsildar, Pedakakani Mandal states that the land admeasuring Ac.23.30 cents is originally a tank poramboke. The petitioners were granted temporary permission for ek-sal cultivation in the tank poramboke for Fasli 1386 by the then Tahsildar on 02.07.1976. There are no orders for continuance of the petitioners after completion of one year from 02.07.1976. After formation of Mandals in the year 1985, the tank bed lands and water course poramboke lands are prohibited from assignment or alienation. He relied on several Government Memos and the order of the Supreme Court in Civil Appeal No.4787 of 2001, dated 25.07.2001, apart from the order of this Court in Writ Petition No.9250 of 2001, dated 14.03.2002. The said land was never converted to ayan (assessed waste dry) for cultivation/grama khantam. He filed the required documents along with the counter.

4. The Superintending Engineer, Irrigation Circle, Guntur filed a counter affidavit on behalf of respondents 2 & 3 stating that the extent

of Ac.13.48 cents of land belongs to tank bed land, admeasuring Ac.23.30 cents in Survey No.296 and the villagers of Ramachandrapalem, hamlet of Takkellapadu village encroached the said land of Ac.13.48 cents on the basis of orders issued by the then Tahsildar, dated 2.07.1976. He also stated that the Tahsildar, Pedakakani Manal confirmed that no DKT Pattas were issued at any point of time. He further stated that in view of the orders of the Supreme Court and the then Commissioner of Land Administration, Andhra Pradesh, Hyderabad, dated 18.03.2013, there was a restriction of allotment of environmentally sensitive lands and the resources of such lands have to be protected by implementing development/conservation plans. The Vice-Sarpanch of Ramachandrapalem Grampanchayat, hamlet of Takkellapadu village conducted a meeting in the Grampanchayat office on 14.04.2015 and a resolution was passed entrusting the responsibilities to the Janmabhoomi Committee to commence the de-silting work in the tanks under the Gram Panchayat limits. After receipt of the said resolution, the boundaries were fixed by the Mandal Surveyor of Pedakakani Mandal on 05.05.2015 and it was noticed that no crop was existing in the total extent of Ac.23.30 cents tank area. The de-silting work was commenced on 09.05.2015.

5. The In-charge Sarpanch of Ramachandrapalem Grampanchayat, Pedakakani Mandal filed a separate counter affidavit seeking impleadment in the present writ petition and also for vacating the interim order dated 14.05.2015. He stated that nearly 300 acres ayacut is existing in the said tank and when the de-silting work was taken up on 09.05.2015, the petitioners obstructed and stopped the work. They also threatened that they would initiate proceedings under the provisions of SCs & STs (Prevention of Atrocities) Act. After stopping the work, they filed the present writ petition on 14.05.2015 on the ground that they were granted pattas in the year 1976.

6. A reply affidavit is filed by the petitioners stating that the petitioners have been cultivating the land since 1965 and in the year 1976 they were granted temporary pattas. Now the work is being taken

by the Government without issuing any notice to the petitioners. It is also stated that they have been agitating for issuance of DKT pattas for a long time and they were granted only temporary pattas, but still today no action has been taken for issuance of DKT pattas. They also stated that in some extent of land, there is a standing crop of maize and on 12.05.2015 a representation was also submitted to the District Collector, Guntur.

7. In the face of the above rival contentions of the parties, this Court verified the temporary pattas granted in the year 1976. It indicates that on 28.07.1976 on the application of one Kotturu Mastan and 19 others, provisional assignment orders for fasli 1386 were issued showing small extents of land in Survey No.296. It was specifically stated therein that the said permission was subject to cancellation without any notice or without any right to the grantee. The papers filed along with the writ petition also indicate that they have submitted a representation on 11.05.2015 to the District Collector stating that they were given temporary pattas in the year 1976 and nearly 50 persons are living on the said land and asked the District Collector to issue necessary orders for cancellation of digging activity.

8. In view of the above, it is clear that no temporary pattas were granted in favour of the writ petitioners except permission granted for 1386 fasli. The revenue records clearly stated that the land admeasuring Ac.23.30 cents in the village is recorded as tank poramboke. After the said incident, the petitioners are in occupation of an extent of Ac.13.48 cents. In view of various orders issued by the Government from time to time, the Government is under obligation to maintain the tank and the assignment of the said lands is prohibited. The Tahsildar, Pedakakani Mandal cited the following documents/orders in support of his contention.

- i) G.O.Ms.No.157 Revenue (M) Department, dated 13.02.1987.
- ii) Memo No.50150/Assn.I(1)/97-11 Rev. (Assn1) Department, A.P., Hyderabad, dated 02.09.2008.
- iii) Memo No.65961/Assn.I(1)/97-11 Rev. (Assn1) Department, A.P., Hyderabad, dated 08.02.1999.

- iv) Civil Appeal No.4787/2001 of Hon'ble Supreme Court of India, dated 25.07.2001.
- v) W.P.No.9250 of 2001 of Hon'ble A.P. High Court, dated 14.03.2002.
- vi) Circular instruction No.81/1488/1997 of CCLA, Hyd, dated 21.08.2002.
- vii) Memo No.24140/Assn.I(1)/03-3 Rev. (Assn1) Department, A.P., Hyderabad, dated 22.08.2003.
- viii) Circular instruction No.B2/2225/2003 of CCLA, Hyderabad, dated 28.08.2003.
- ix) Circular instruction No.B2/2225/2003 of CCLA, Hyderabad, dated 20.09.2003.
- x) Memo No.74911/Assn.I(1)2005 Rev. (Assn1) Department, A.P., Hyderabad, dated 19.01.2006.
- xi) W.P.No.2493 of 2006 of Hon'ble A.P. High Court, dated 23.01.2007.
- xii) Memo No.33571/Assn.I(2)/2011-2 Rev. (Assn2) Department, A.P., Hyderabad, dated 05.13.2012.
- xiii) G.O.Ms.No.571 Revenue (Assn1) Department, dated 14.09.2012.
- xiv) Circular instruction No.B2/1543/2012 of A.P., Hyderabad, dated 18.03.2012.

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9. In view of the above, the activity of the respondents cannot be found fault with. The writ petition is liable to be dismissed and is accordingly dismissed. There shall be no order as to costs. Miscellaneous Petitions, if any pending in this writ petition, shall stand closed.

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A. RAMALINGESWARA RAO, J

Date: 31.07.2015

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THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

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