

HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No. 27425 of 2011

ORDER:

Heard the learned counsel for the petitioners and learned Government Pleader for the respondents. With the consent of both the parties, this Writ Petition is disposed of at the stage of admission.

The present Writ Petition is filed seeking issuance of writ of mandamus declaring the action of the respondent No.3/Tahasildar in issuing proceedings dated 30.04.2007 without giving any notice and opportunity to the petitioner, as illegal, arbitrary and violation of principles of natural justice and consequently direct the respondents No.4 to 7 not to enter into the land of the petitioner, to an extent of Ac.0.12 cents in Sy.No.258/1-A, Ac.0.50 cents in 258/1-C and also in possession of Ac.0.06 cents in Sy.No.258/2-A, Ac.0.41 cents in Sy.No.258/2-C and Ac.0.04 cents in Sy.No.258/3-A, Ac.0.07 cents in Sy.No.258/3-C1, Ac.0.42 cents in Sy.No.258/C2 totally an extent of Ac.1.62 cents situated at Tiruchunuru village, Chandragiri Taluq, Chittoor District by setting aside the proceedings of the 3rd respondent dated 30.04.2007.

The averments in the Writ Petition shows that the petitioners herein vide proceedings IDT.No.1/83 CTR dated 30.09.1985 were granted rythwari patta under

Section 7 of A.P. Inams Abolition Act, 1956 for the lands in Sy.No.258/1 to an extent of Ac.0.86 cents, in Sy.No.258/2 in an extent of Ac.0.64 cents and in Sy.No.258/3 an extent of Ac.0.72 cents. The said land came to be renumbered after its sub division. The averments in the affidavit shows that the petitioners are in possession and enjoyment of the lands to an extent of Ac.0.12 cents in Sy.No.258/1-A, Ac.0.50 cents in 258/1-C and also in possession of Ac.0.06 cents in Sy.No.258/2-A, Ac.0.41 cents in Sy.No.258/2-C. It is stated that the petitioners also in possession of land to an extent of Ac.0.04 cents in Sy.No.258/3-A, Ac.0.07 cents in Sy.No.258/3-C1, Ac.0.42 cents in Sy.No.258/C2 totally an extent of Ac.1.62 cents. The averments further show that from the date of grant of rytwari patta the father of the petitioner was in possession of the land and after his death the petitioners are in possession of the land. The rythwari patta granted in the name of the father of the petitioner was mutated in the revenue records. While things stood thus, the respondents 4 to 8 are trying to enter into the lands of the petitioner though they have no right over the land. When the petitioners questioned them, the respondent informed that their names were not mutated in the revenue records. Then an application under Right to Information Act was made to get the copies of revenue records. In compliance of their application they were given the proceedings dated 30.04.2007 which shows change of names and inclusion

of 8th respondent as pattedars. Hence, the present Writ Petition.

Though various grounds are raised in the present petition, the learned counsel for the petitioners submitted that under Section 5(5) of the A.P. Rights in Land and Pattedar Pass Books Act, she has remedy to prefer appeal before the R.D.O. It appears that without availing the said remedy, the petitioners directly approached the Court.

The Apex Court in **Commissioner of Income Tax v.Chhabil Dass Agarwal**^[1] held that “ *the High Court will not entertain a petition under Article 226 of Constitution, if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance still holds the field. Therefore, when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation.*”

Since the issue involves disputed questions of fact and as an alternative remedy is available to the petitioners and having regard to the submission made by the learned counsel for the petitioners, the present Writ Petition is disposed of directing the petitioners to prefer an appeal under Section 5(5) of the A.P. Pattedar Pass Books Act, before the appropriate authority, which shall be dealt with in accordance with law at the earliest.

Accordingly, the Writ Petition is disposed of. No

order as to costs. As a sequel to it, miscellaneous petitions pending if any, in this Writ Petition, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Date:03.08.2015

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[\[1\]](#) (2014) 1 SCC 603