

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.15272 OF 2005

ORDER:

This writ petition is filed challenging the action of the respondents in interfering with the schedule property of the petitioner situated in Sy.No.536/2, for an extent of Ac.5.10 cents in Bandameeda Kammapalle Village, Madanapalle Mandal, Chittoor District, without following the due procedure of law.

Heard Sri P. Jagadish Chandra Prasad, learned counsel for the petitioner and learned Government Pleader for Revenue (A.P).

It is the case of the petitioner that he is the owner of the property over an extent of Ac.5.10 cents situated in Sy.No.536/2, Bandameeda Kammapalle Village, Madanapalle Mandal, Chittoor District and the petitioner had developed the said land by borrowing money from the District Central Cooperative Agricultural Development Bank, Chittoor. The petitioner had also dug a well in the said land and cultivating the land by raising the dry crops and when the well dried up, petitioner is depending on the rainfall and raising the wet crop. It is stated that the petitioner was issued pattadar pass books and his name was also entered in the revenue records. It is further averred that the patta granted in favour of the petitioner in the year 1994, was cancelled by the 2nd respondent un-authorisedly without following due process of law and on appeal, the Revenue Divisional Officer vide his proceedings in R.O.C.No.1294/1994 dated 14.02.1994 had allowed the appeal. Even as on the date, the petitioner is in possession and enjoyment of the land in question.

The writ petition came to be admitted on 14.07.2005 and an interim order was passed restraining the respondents from interfering and dispossessing the petitioner without following the due procedure of law.

A counter-affidavit was filed by the 1st respondent-District Collector.

A perusal of the counter-affidavit reveals that every averment which has been made by the petitioner practically has been admitted that is with regard to the right of the petitioner's granting of patta in his favour or in his predecessor's interest, the Mandal Revenue Officer canceling the patta and the cancellation of such orders by the Revenue Divisional Officer. All these aspects which have been admitted in the counter-affidavit signed by the District Collector one Sri Shamsheer Singh Rawat, I.A.S, S/o. Chandra Singh Rawat, would leave no manner of doubt that the petitioner is the rightful owner of the agricultural land in question. The only averment in the counter-affidavit is that inasmuch as the petitioner has been assigned the land in question in the year 1956 and the Government can take the possession of the land without payment of compensation as one of the conditions stipulated in the patta is that the land can be resumed from the assignee without payment of compensation. The said aspect of the matter has been repeatedly asserted by the respondents authority in their counter-affidavit.

The learned counsel for the respondents reiterates the contentions in the counter-affidavit and when this Court put a query about the judgment of this Court reported in **Land Acquisition Officer v. Mekala Pandu**^[1] the learned Assistant Government Pleader for

Revenue fairly concedes that in view of the judgment of the larger Bench of this Court in **Mekala Pandu's case** (1 supra), even assigned land could be taken over by the Government only on payment of just compensation.

In the light of the settled proposition of law as declared by this Court in **Mekala Pandu's** case, the writ petition is allowed directing the respondents-authorities to take possession of the property, if they desire only after following the due procedure of law by paying just compensation. No order as to costs.

Miscellaneous Petitions, if any pending in this writ petition shall stand closed. No order as to costs.

CHALLA KODANDA RAM,J

Date:27.10.2015.

Gk.

HON'BLE SRI JUSTICE CHALLA KODANDA RAM
