

**HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO**

**W.P.No.3656 of 2004**

**ORDER**

Heard learned counsel appearing for the petitioners and learned counsel appearing for the respondents.

This writ petition is filed challenging the action to sell away the land of the petitioners admeasuring Acs.2.20 guntas in Sy.No.128, Yapral Village, Malkajgiri Mandal, Ranga Reddy District, as arbitrary and illegal.

It is the case of the petitioners that one late E.Yenkaiah was the absolute owner and possessor of land admeasuring Ac.2.20 guntas in Sy.No.128, Yapral Village, Malkajgiri Mandal, Ranga Reddy District. He was given patta certificate by the then Tahasildar *vide* proceedings No.A3/7175/1961, dated 1.7.1962. The said Yenkaiah approached the respondents for inclusion of his name in the revenue records, but his efforts proved futile and he died on 28.01.1992 leaving behind his wife and sons as his legal heirs. Thereafter, the petitioners came in possession of the said property and are in possession for the last 40 years. They approached the Mandal Revenue Officer, the Revenue Divisional Officer and also the District Collector by

making representations, but no action has been taken thereon. Aggrieved thereby, the petitioners filed W.P.No.3537 of 2004 before this Court and the same is pending. While so, on 19.2.2004, a news item was published stating that the Government land admeasuring Acs.4.00 in Sy.No.128 of Yapral Village, Malkajgiri Mandal, was being auctioned by the 4<sup>th</sup> respondent on 29.2.2004. At this stage, the petitioners filed the present writ petition.

This Court *vide* order dated 27.02.2004 in WPMP No.4811 of 2004 recorded that since the petitioners are not in possession, any auction conducted will be subject to further orders in WPMP.

Counter-affidavit has been filed on behalf of the first respondent stating that the land in question, which is an extent of Acs.2.20 guntas in Sy.No.128 of Yapral Village is Government land, classified as “Sarkari” and “Poramboke” in revenue records and the land belongs to and in possession of the Government. The total extent in Sy.No.128 is Acs.5.17 guntas. The right, if any, is only one in the nature of permissive possession and the same would not confer any right or title over the Government land. The land was never in possession of any person at any point of time, as evident from the entries in the Pahani. The request of the petitioners for

mutating their names in the revenue records was rejected on 2.1.2004. The said land has been handed over to HUDA and the same has been fenced and is proposed for public auction to generate revenue for the State.

The 4<sup>th</sup> respondent filed counter-affidavit stating that *vide* proceedings dated 11.2.2002, the 3<sup>rd</sup> respondent allotted the said land to the 4<sup>th</sup> respondent and possession was handedover by the 1<sup>st</sup> respondent through Mandal Revenue Inspector under panchanama dated 19.4.2002. At the time of handing over possession, nobody was in occupation of the said land and none objected for the same. Though the said land was proposed to be auctioned on 29.2.2004, it was not put to auction due to administrative reasons.

The entire case of the petitioners is based on an alleged patta certificate given by the Government in 1962. The said permission was granted by the then Tahsildar. But, it is not clear from the record that whether the grantee was in possession of the property or the petitioners were in occupation after the death of said E.Yenkaiah.

Learned counsel appearing for the petitioners submits that since the petitioners are in possession of the alleged land by virtue of written permission, the

petitioners are entitled for a notice before taking possession of the property.

As already stated above, at the time of admitting the writ petition on 27.02.2004, this Court noted that the petitioners were not in possession of the property, but any auction conducted would be subject to further orders.

In the absence of any title or possession, except the written permission granted by the then Tahasildar on 1.7.1962, this Court is not inclined to grant the relief as prayed for by the petitioners.

Accordingly, the Writ Petition is 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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**JUSTICE A.RAMALINGESWARA RAO**

*13<sup>th</sup> February, 2015*  
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