

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

C.C.No.296 of 2015

Date : 20-11-2015

Between:

Sagiraju mRamagopala Raju

and others .. Petitioners

And

V. Nagarjuna Reddy,

The then Tahsildar,

Mogaltur Mandal, Mogaltur,

West Godavari District,

Presently working as Tahsildar,

Akividu Mandal, Akividu,

West Godavari District

and others .. Respondents

Counsel for petitioners : Mr. C. Ramachandra Raju

Counsel for respondent Nos.1 to 4 & 6 : Government Pleader

for Revenue (AP)

Counsel for respondent No.5 : Mr. D. Jaipal Reddy

The Court made the following:

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ORDER:

This Contempt Case is filed alleging willful disobedience of order dated 20-09-2013 in W.P.No.26252 of 2013.

The petitioners filed the above mentioned Writ Petition feeling aggrieved by the notices issued by respondent No.1 for holding of survey. It was the pleaded case of the petitioners that as the village in which the lands are situated is an Estate village, respondent No.1 was not competent to hold any survey for the purpose of identifying the persons in enjoyment of the property. During the hearing of the Writ Petition, the learned Assistant Government Pleader for Revenue, on instructions, submitted that as pleaded by the petitioners, Kalipatnam village is an Estate village and that Settlement operations have not been completed. He has further submitted that respondent No.1 is not intending to grant ryotwari pattas to any one including third parties and that the survey proceedings were initiated only at the instance of third parties for mutation of their names in the record of rights and grant of pattadar passbooks and not regular pattas. This

Court has recorded the said statement and also the statement of Mr. C. Ramachandra Raju, the learned Counsel for the petitioners, that if the proceedings initiated are only limited to mutation proceedings under Sections 4, 5 and 6-A of the A.P. Rights in Land and Pattadar Passbooks Act 1971 (for short "the Act") his clients have no objection in respondent No.1 proceeding with the said proceedings. Accordingly, this Court has disposed of the Writ Petition with the following observations:

“In view of the above submissions of the learned Counsel for the parties, the Writ Petition is disposed of by permitting the petitioners to participate in the enquiry initiated by respondent No.1 only for the purpose of mutation proceedings and for grant of pattadar passbooks and title deeds and not for grant of regular patta. If any order adverse to the interests of the petitioners is passed by respondent No.1, they shall be free to question the same by availing appropriate remedies.”

Alleging willful disobedience of the said order, the petitioners have filed this Contempt Case.

It is averred in the affidavit filed in support of the Contempt Case that despite the undertaking given to this Court that he will hold an enquiry only for the limited purpose of mutation of the names of the persons in occupation for grant of pattadar passbooks and not for grant of regular pattas, respondent No.1 went ahead with the purported enjoyment survey and entered the names of the persons who were allegedly found in possession of the subject property in the Adangal after removing the names of the petitioners.

Respondent No.2 filed a counter affidavit wherein he has inter alia made the following unequivocal statement:

“ The enjoyment survey conducted only to note down the enjoyment of occupants in adangal only but not for granting ryotwari patta/regular patta. The ryotwari patta cannot be granted unless until the settlement operations are completed under Estate Abolition Act. Unless the claim of ryots (occupants) are accepted by the settlement officer for issue of

ryotwari patta and after issue of ryotwari patta then only the mutations will be carried out regarding right/title over the lands possessed under A.P. Rights in Land and Pattadar Passbooks Act. It is only to note down the names of the enjoyers in enjoyers column of the adangal and not for confirmation of title and issue of pass books. So the allegations made in this para are not correct and true.”

The learned Counsel for the petitioners vehemently contended that the question of mutation of the name of any person in the record of rights would arise only after the settlement operations are completed and the rights of the persons in occupation are established and that the action of respondent No.1 in entering the names of the persons in occupation of the subject property in the Adangal is in violation of the order of this Court.

From the averments contained in the counter affidavit, it is clearly evident that survey is undertaken to identify the persons in occupation of the subject property for the limited purpose of noting down the enjoyment of the occupants in the Adangal and grant pattadar pass books and not for grant of ryotwari patta. The order passed by this Court would clearly show that the learned Counsel for the petitioners has agreed for holding of the survey only for this limited purpose. The petitioners having not objected to the holding of survey for the purpose of entering the names of the occupants in the Adangal in order to facilitate issue of pattadar pass books, they cannot term the action of the respondents taken in conformity with the order passed by the Court. So long as the survey is not conducted with a view to grant ryotwari pattas, it cannot be held that respondent No.1 has committed willful violation of the order of this Court. In the wake of the plea raised by respondent No.1 that the survey was conducted only to note down the enjoyment of the occupants by entering their names in the Adangal, I am of the opinion that respondent No.1 has not willfully violated the order of this Court. However, it is made clear that the entering of the names of the enjoyers of the subject property in the Adangal shall not in any

manner influence the authority conducting the settlement operations under the A.P. (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 for the purpose of grant of regular pattas and that the same shall not defeat the rights of the petitioners in any manner for claiming regular ryotwari patta. It is also made clear that if the petitioners feel aggrieved by the removal of their names and entering the names of the third parties in the Adangal, they shall be free to avail appropriate remedy in accordance with law for questioning the same.

For the aforementioned reasons, the Contempt Case is dismissed.

As a sequel to the disposal of the Contempt Case, Contempt Application No.179 of 2015 is disposed of as infructuous.

Justice C.V. Nagarjuna Reddy

Date : 20-11-2015

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