

THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
(Special Original Jurisdiction)

FRIDAY THIS THE TWENTIETH DAY OF MARCH
TWO THOUSAND AND FIFTEEN

PRESENT

**THE HON'BLE MR JUSTICE A.RAMALINGESWARA
RAO**

-
SECOND APPEAL No.653 of 2014

Between:

Dupati Harikrishna and 3 others

.....
APPELLANTS

AND

Salikanti Venkateshwarlu and 2 others

.....**RESPONDENTS**

The Court made the following:

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

SECOND APPEAL No.653 of 2014

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JUDGMENT:

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This Second Appeal arises out of the judgment and decree in A.S.No.63/2013, dated 09.06.2014, passed by the learned Additional District Judge, Miryalaguda, confirming the judgment and decree in O.S.No.25/2011, dated 11.06.2013, passed by the learned Principal Junior Civil Judge, Miryalaguda.

The defendants are the appellants. The respondents herein filed O.S.No.25/2011 seeking permanent injunction in respect of Ac.3.00 dry land, situated in Sy.No.663 of Vemulapally village and Mandal.

It is the case of the plaintiffs that they are the sons of one Salikanti Saidulu, who acquired the said property by way of occupancy certificate issued by the Revenue Divisional Officer, by his proceedings dated 04.05.1990, under the provisions of Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1954. The name of the original pattadar was mutated in the revenue records. The original pattaholder expired on 24.02.2009 leaving behind the plaintiffs, being his legal heirs. The names of plaintiffs are also mutated in the revenue records. When the defendants tried to interfere with the possession of the plaintiffs, the suit was filed.

The case of the defendants is that they inherited the property from their grand father's father. They challenged the occupancy certificate issued in favour of the plaintiffs' predecessors in interest.

Before the trial Court, the plaintiffs examined PWs 1 to 5 and filed Exs.A1 to A10. The defendants did not file any document nor examined anyone.

The trial Court, after going through the oral and documentary evidence, granted perpetual injunction, by judgment and decree dated

11.06.2013. Challenging the same, the defendants preferred A.S.No.63/2013 before the Additional District Judge, Miryalguda, who dismissed the same confirming the judgment and decree of the trial Court. However, it was observed that if the defendants claim any title to the property, they are at liberty to redress their grievance by filing a suit for declaration and other reliefs at appropriate time.

In view of the concurrent finding of the fact, recorded by both the Courts below and in the absence of any evidence of *prima facie* title and possession in favour of the appellants/defendants, this Court is not inclined to admit the second appeal.

Accordingly, the Second Appeal is dismissed at the stage of admission. However, as observed by the lower appellate court, the appellants/defendants are entitled to file a suit for declaration, if they so choose. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in consequence.

A.RAMALINGESWARA RAO,J

Date: 20.03.2015

Dsr