

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.5039 OF 2015

ORDER:

This writ petition is filed by the petitioner seeking to issue a writ of *Mandamus* to the respondents 2 to 4 not to interfere with her peaceful possession and enjoyment of the property bearing Plot No.5, Sy.No.144/1, Y.Kothapalli, Erragondapalem Village and Mandal, Prakasam District.

It is the case of the petitioner that she was allotted the house site over an extent of Ac.0.03 cents under Board Standing Order 21 by the 2nd respondent through the proceedings RCA/H.S/659/2010 dated February, 2010 and a patta was also issued to that effect. Thereafter, the petitioner has constructed a pakka house and has been in peaceful possession and enjoyment of the same. While so, the 3rd respondent under the instigation of the 4th respondent accompanied by a constable had visited the site on 23.2.2015 at about 5.00 p.m and tried to demolish the structures and when the petitioner tried to resist the same, the 3rd respondent left the place leaving a threat that they would see that the entire structure is demolished and the plot is allotted to third parties. It is the further case of the petitioner that no notice has been issued to her alleging any violation of the conditions contained in the patta. Hence, the petitioner filed the present writ petition.

Initially when the writ petition came up for hearing, notice before admission was ordered and the learned Assistant Government Pleader for Revenue sought time for getting the instructions. Today when the matter is listed, the Assistant Government Pleader for Revenue submitted his written instructions as received from the

Tahsildar vide his letter dated 28.02.2015 stating that there was no patta with RCA/HS/659/2001 dt.02.2010 was issued from the office of Mandal Revenue Officer, Yerragondapalem in the name of Avula Rama Devi, W/o. Pitchi Reddy. As a matter of fact, the patta was granted in favour of one Gurram Venkateswarlu, S/o. Venkata Swamy of Yerragondapalem Village on 11.01.1993 and the petitioner has occupied the same plot No.5 without any valid patta and objecting, the original assignee from entering this plot. He further stated that the original assignee approached the Collector grievances cell to get justice. He stated that during the course of enquiry in the matter, it has been noticed that the petitioner is threatening the original assignee saying that the land was granted to her. However, when the official respondents visited the site of the petitioner and questioned about her illegal occupation, the petitioner gave a voluntary statement that she would remove the structures and also the hayrick which is obstructing the pathway within a period of 7 days. Considering the voluntary statement of the petitioner, the official respondents have not initiated any action.

The facts on record are not in dispute. The fact that the petitioner is in occupation of the Government land is evident from the very statement of the petitioner. However, the respondents cannot be permitted to take the law into their hands and cannot be permitted to go and threaten the petitioner. Any action that is required to be taken by the official respondents to restore the land to the original assignee, need to be done by following the due process and procedure prescribed under the law. In that view of the matter, liberty is given to the respondents to proceed against the petitioner by issuing notice and calling for objections and thereafter necessary processes may be carried out in accordance with law. Till such time, the petitioner cannot

be dispossessed from the possession and enjoyment of the property in question. However, it is made clear in the guise of the orders granted by this Court, the petitioner shall not be entitled to make any further constructions in the property in which she is alleged to be in illegal occupation.

With the above observations, the writ petition is disposed of. No order as to costs. Miscellaneous Petitions, if any pending in this writ petition shall stand closed.

CHALLA KODANDA RAM,J

Date:03.03.2015.

Gk.

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

-
-
-
-
-

WRIT PETITION No.5039 OF 2015

-
-

Date:03.03.2015

Gk