

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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W.P.No. 16233 of 2014

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DATE: 10.03.2015

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Between:

P. Narayana Swamy

and two others .. Petitioners

And

1. The Chief Commissioner of Land Admn.

2. The District Collector

3. The Joint Collector

4. The Revenue Divisional Officer

5. The Tahsildar .. Respondents

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ORDER:-

The petitioners assert that petitioner Nos.1 and 2 and the wife of the 3rd respondents, being landless poor, were assigned agricultural lands in the year 2000 admeasuring Ac.2.00 cents in Sy.No.266/3, Ac.1.50 cents in Sy.No.266/14 and Ac.1.23 cents in Sy.No.266/5 situated in Nisankadurgam village, Karvetinagar Mandal, Chittoor

District and DKT pattas bearing Nos.39/4/1409, 40/4/1409 and 41/4/1409 respectively were also granted, and subsequently, their names were mutated in the revenue records including Adangal, Extract of 1-B Register and pattadar passbooks and title deeds were also issued to them and they raised mango trees in their lands and have been living on the usufruct thereof. While so, it is stated that against the judgments dated 28.07.2005 in two separate suits i.e. O.S.Nos. 298 and 299 of 2004 filed by the wife of the 3rd petitioner and the 1st petitioner respectively which were delivered by the Principal Junior Civil Judge, Puttur in their favour granting permanent injunction against one T. Ramaiah and three others, the latter filed a false complaint to the 4th respondent – Revenue Divisional Officer to cancel the assignments made in favour of the assignees, thereupon, the Revenue Divisional Officer recommended the 3rd respondent – Joint Collector for cancellation of the assignment. When the latter, issued Notice dated 01.07.2008, the petitioners failed to submit explanation nor appeared before the Joint Collector, as such, the 3rd respondent, vide orders dated 02.12.2008, cancelled the DKT pattas and directed the 5th respondent-Tahsildar to take necessary action for resumption of the lands to the Government and cancel pattadar passbooks and title deeds and assign the lands to eligible landless poor STs. belonging to Combined Joint Farming Society (CJFS). Challenging the order of the 3rd respondent, the petitioners preferred an appeal before the 1st respondent – Chief Commissioner of Land Administration, who, by order stated 04.05.2009, granted stay of dispossession of the petitioners from the subject lands. During pendency of the appeal, the wife of the 3rd petitioner died, as such, the 3rd petitioner was brought on record as her legal representative. At the hearing of the appeal, the 1st respondent directed the 2nd respondent-District Collector to send a detailed report as to whether the assignees are the members of C.J.F.S. Being not satisfied with the enquiry report of the District Collector, the

1st respondent remanded the matter to the 3rd respondent-Joint Collector for fresh enquiry. Now, the petitioners' grievance is that during the course of fresh enquiry, the 5th respondent -Tahsildar, issued impugned order anti-dated 26.05.2014, though it is was apparently signed on 29.05.2014 making a false allegation that the lands were resumed to the Government on 16.02.2009 and assignments were cancelled in spite of the fact that no steps have been taken to cancel the DKT pattas in pursuance of the orders of the Joint Collector, and directed the petitioners not to enter their lands and harvest the existing mango crop, otherwise, threatened that he would initiate civil proceedings against them. Hence, the present writ petition is filed seeking appropriate directions.

At the hearing, the learned counsel for the petitioners, while drawing the attention of this Court to the complaint dated 24.05.2009 lodged by the Tahsildar to the police, Puttur stating that the 1st petitioner trespassed into the lands in question, whereby the 1st petitioner was acquitted of the offences punishable under Sections 447, 427 and 379 IPC, vide judgment dated 25.08.2012 in C.C.No. 303 of 2009 on the file of the Judicial Magistrate of I Class, Puttu, submits that the petitioners could not have been treated as trespassers especially considering the fact that they were lawfully inducted into the possession of the property in issue by virtue of DKT pattas granted in their favour. It is further submitted that merely because pattas were stated to have been cancelled by conducting a false panchanam alleging that the possession was taken on 16.02.2009 by the Government even before the petitioners exhausted the remedy of appeal available to them under the statute, it is nothing but travesty of justice especially by reason of the fact that the appellate authority, the Chief Commissioner of Land Administration had granted the stay order on 04.05.2009. In that view of the matter, the learned counsel submits that the impugned Notice / order dated 29.05.2014 cannot be sustained.

Heard the learned counsel for both the parties and perused the

material placed on record.

The factual aspects of the matter are not in dispute. A bare perusal of the impugned proceedings reveal that the same is contrary to the order of remand dated 26.05.2014 passed by the 1st respondent for fresh enquiry which amounts to setting aside the order dated 02.12.2008 of cancellation of DKT pattas.

In that view of the matter, the possession and enjoyment of the mango garden and the entitlement of the petitioners to take produce of the lands in issue cannot be said to be unauthorized and illegal. The very order / notice dated 29.05.2014 issued by the Tahsildar is unsustainable in the face of the final orders dated 26.05.2014 passed by the

1st respondent. Therefore, the impugned Notice dated 29.05.2015 is liable to be quashed and the same is hereby quashed. So far as the implead petitioners/proposed respondent Nos.6 to 9 i.e. T.Ramaiah and three others are concerned, as of today, they only have a feeling of exploitation of the lands allotted in their favour but they do not have any right by virtue of the impugned notice, as such, there is no requirement of considering various issues urged by the learned counsel for the implead petitioners. Considering the fact that originally, the matter relates to the year 2008, the

3rd respondent-Joint Collector may consider and dispose of the main case said to have been pending for fresh enquiry and report, within a period of six months from today after giving due notices to all the parties.

The writ petition is allowed to the extent indicated above. No order as to costs.

As a sequel to the allowing of the writ petition, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

CHALLA KODANDA RAM, J

10.03.2015

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