

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.22150 of 2009

Date: 05.02.2015

Between:

K.Bhavani W/o.Suresh, Aged about 26 years,
R/o.H.No.6-11-158, M.C.R.Colony, Tirupati,
Chittoor District and others.

.. Petitioners

AND

Government of Andhra Pradesh, rep.by its
Pri.Secretary, Revenue (Assn.Pot) Department,
Secretariat, Hyderabad and others.

.. Respondents

The Court made the following:

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.22150 of 2009

ORDER:

This writ petition is instituted aggrieved by action of the respondents in not allotting the house sites to the petitioners to the extent of Ac.0.25 cents each comprising in Sy.No.41/1 of Tirupati Town in accordance with the scheme formulated by the Government in G.O.Ms.No.166 Revenue (Assn.Pot) Department, dated 16.02.2008. Petitioners claim that they belong to Scheduled Casts and Backward Classes and eking out their livelihood by selling vegetables and they are being residing in Marri Chenna Reddy Colony in Sy.No.41/1 for the last twenty years by erecting thatched houses. As some persons encroached the above land and remaining land was occupied by Tirupati Municipality and they were forcibly evicted from their thatched houses. They have also submitted applications for allotment of land to an extent of Ac.0.25 cents in the above survey number in accordance with the policy of regularization of occupants on Government land notified by G.O.Ms.No.166, dated 16.02.2008 and no steps is taken so far.

2. This Court by order dated 15.10.2009 passed the following interim order:

“There shall be interim direction to the respondents to consider the applications purported to have been filed by the petitioners on 16.09.2009 seeking regularization of their occupation of the land in an extent of 0.25 cents each in Sy.No.41/1 of Marri Chenna Reddy Colony, Tirupati and pass appropriate orders as per law, within a period of six weeks from the date of receipt of a copy of this order.”

3. Respondents 5 and 6 impleaded as respondents and filed W.V.M.P.No.4407 of 2009 praying to vacate the interim order dated 15.10.2009.

4. When vacate petition is taken up for consideration, learned counsel for the petitioners as well as counsel representing respondents agreed for final disposal of the writ petition.

5. The only submission of the writ petitioners is that they have been in occupation and enjoyment of the land in Sy.No.41/1 for more than 20 years by erecting thatched houses and they were forcibly evicted by private persons and on account of such eviction, they became shelter less and in accordance with the scheme formulated by the Government in G.O.Ms.No.166, their occupation ought to have been regularized.

6. Stand of the respondents 5 and 6 is that the land which petitioners claiming is a private patta land, which is now called as M.C.R. Colony and layout was formed after obtaining due permission and houses were constructed. As per the norms, Ac.0.25 cents was left as open space and surrendered to Tirupati Municipal Corporation and same vested in Tirupati Municipal Corporation. It is further averred that petitioners in the writ petition and few others earlier filed W.P.No.18166 of 2005 with similar relief to allot house sites in the same survey number. The said writ petition was dismissed by judgment dated 22.04.2009 and without disclosing the said fact the present writ petition

is instituted seeking the same relief, except for changing the name as “Sonia Gandhi Sangham” instead of “Kharjura Naidu Sangham” as described in the earlier writ petition. It is their stand that land in Sy.No.41/1 is in their possession and enjoyment since 1980, though there are civil disputes between private persons and S.A.No.59 of 2003 is pending for consideration by this Court, petitioners are no way concerned with civil disputes and petitioners cannot ask for regularization on private land.

7. Learned standing counsel for Tirupati Municipal Corporation submits that earlier request of the petitioners was considered and petitioners were informed that they were not entitled for such regularisation/allocation of the sites claimed by them. On a further representation, they were also informed by letter dated 06.08.2004 that they are not entitled for such allocation. It is submitted that in spite of informing the petitioners that they are not entitled for such allocation, petitioners continued to make representations. Learned standing counsel further submits that Ac.0.25 cents of land which petitioners claim to be allotted to them is earmarked for public purpose and vested in the Municipality as part of the housing colony and cannot be converted into house site plots nor houses can be constructed on the said land and, therefore, question of allocation of the said land to the petitioners does not arise.

8. Learned Assistant Government Pleader submits that the scheme of Government notified in G.O.Ms.No.166 has no application to the facts of this case. The granting of pattas under the scheme would arise only in case of occupation on unassigned lands and on production of proof of occupation as mentioned in para-5 of the scheme. The land in Sy.No.41/1, as already stated by the Mandal Revenue Officer in his letter dated 06.08.2004, is a private patta land and, therefore, question of granting assignment by the State on the said private land would not arise.

9. The stand of the respondents 5 and 6 in their counter- affidavit that petitioners have already filed Writ Petition No.18166 of 2005 seeking the same relief and was dismissed is not denied. Petitioners themselves stated that they were already evicted by the time the writ petition was instituted and, therefore, they are no more in occupation of the said land. The petitioners do not deny the stand of the respondents 5 and 6 and the revenue authorities that the land in Sy.No.41/1 is a private patta land. Thus, in accordance with the scheme notified in G.O.Ms.No.166, petitioners are not entitled to assign the plots in Sy.No.41/1 of Tirupati Town under G.O.Ms.No.166. If the petitioners have an independent claim vis-à-vis owners of the property, they have to work out their remedies elsewhere, but cannot ask for regularization of Ac.0.25 cents of land in Sy.No.41/1 of Tirupati Town under G.O.Ms.No.166 as the said land is not an unassigned Government land and it is a private patta land.

10. Therefore, I see no merit in the writ petition and writ petition is accordingly

dismissed. There shall be no order as to costs.

Miscellaneous petitions if any pending in the writ petition shall stand closed.

JUSTICE P.NAVEEN RAO

Date : 05.02.2015
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