

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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W.P.No. 1208 of 2011

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DATE: 10.03.2015

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Between:

S. Sitarama Swamy

and another .. Petitioners

And

1. The District Collector

2. The Revenue Divisional Officer

3. The Tahsildar

4. Maddipati Bulli Kasulu .. Respondents

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ORDER:-

The petitioners assert that while the 3rd respondent-Tahsildar granted house-site patta in favour of the 1st petitioner in 1977 in respect of Ac.0.03 cents of land in Plot No.82 in R.S.No.228/1, the 2nd petitioner purchased Plot No.81 in the same survey number situated in Koyyalagudem village and Mandal, West Godavari District from the original allottee by name Nagaboyina

Kalahasti by virtue of unregistered document dated 03.02.1990 and they constructed small houses in their plots and have been in peaceful possession and enjoyment of the same. While so, the 3rd respondent issued a Notice dated 11.01.2011 under Section 7 of the A.P. Land Encroachment (Extension and Amendment) Act, 1958 alleging that the petitioners encroached the passage (Bandi Dari) and directed them to remove the constructions. The petitioners submitted their explanation dated 20.01.2011 stating that they have not encroached the alleged passage and they constructed their houses within the limits of their plots and also requested the 3rd respondent to furnish certain documents viz. F.M.B., R.S.R., 10(1) Adangal and No.3 Account so as to enable them to submit detailed explanation. Now, the grievance of the petitioners is that the 3rd respondent, without furnishing the required documents and without passing any orders on their explanation, is threatening to demolish their houses. Hence, the present writ petition is filed seeking appropriate directions.

This Court, on 28.01.2011, while admitting the writ petition, passed an order in W.P.M.P.No. 1469 of 2011 directing the official respondents not to interfere with the possession and enjoyment of the petitioners over the subject property.

Heard the learned counsel for both the parties and perused the material placed on record.

The official respondents filed counter affidavit *inter alia* denying the averments made in the writ affidavit. As could be seen from the record, the controversy in issue lies in narrow compass and the facts are not in dispute. In the counter affidavit, there is no mention whatsoever about furnishing of documents sought for by the petitioners. It is the specific contention of the petitioners that neither they were allotted assigned land by the authorities nor they occupied the pathway / Bandi Dari. In that view of the matter, the very issuance of the notice dated 11.01.2011 itself is being questioned. However, the grievance put forth by the petitioners that their requisition for furnishing of certain documents specified in their representation to

enable them to submit explanation was not considered, cannot be said to be unreasonable.

In view of the above, this Court deems it appropriate to dispose of the writ petition with the following directions:

“The 3rd respondent-Tahsildar is directed to furnish the documents sought for by the petitioners. On such furnishing of the documents, the petitioners shall file their detailed explanation and the same shall be considered and appropriate orders thereon be passed by the 3rd respondent in accordance with law. If, either the petitioners or the 4th respondent plead for an opportunity of personal hearing, the same shall also be afforded. The entire exercise shall be completed within a period of four months from today. After appropriate orders are passed on the explanation that may be submitted by the petitioners, either party, if so advised, may exhaust the remedies as may be available to them under the statute.”

With the above direction, the writ petition is disposed of. No order as to costs.

As a sequel to the disposal 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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