

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 13360 of 2012

ORDER:

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Heard learned counsel for the petitioner, Government Pleader for Revenue and Government Pleader for Home. With the consent of all the parties, the main writ petition is heard at the admission stage itself.

The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of respondent No.3 in issuing house site possession certificates vide proceeding Nos. 2048/1417 dated 28.10.2007, 2049/1417 dated 28.10.2007 and 1862/1419 dated 13.12.2009 in favour of respondent Nos.5 to 7 respectively in respect of the petitioner's land situated in Sy.No.419/2 of Chinna Chowk Gram Panchayat, Kadapa District, as arbitrary, illegal and contrary to the principles of natural justice; and consequently cancel the same.

The petitioner claims himself to be owner and possessor of agricultural land admeasuring Ac.4.00 in Sy.No.419/2 situated at Chinna Chowk Gram Panchayat, Kadapa District as it was purchased by him from a lawful owner vide document No. 6119/1980. The petitioner is said to have executed a registered General Power of Attorney dated 28.12.1982 in favour of his co-brother by name T.Balaiah for the purpose of executing the registered sale deeds and to make signatures for the transactions with the Government on his behalf. While things stood thus, the G.P.A. holder of the petitioner divided the said land into residential plots admeasuring Ac.0.05 cents each and

sold the same. Out of Ac.4.00 of land, about Ac.0.10 cents was not sold. The G.P.A. holder of the petitioner died on 12.12.2008 as such the land admeasuring Ac.0.10 cents vested with the petitioner and he claims to be in possession and enjoyment of the same. On 29.04.2012, when the petitioner was constructing cattle shed in the land admeasuring Ac.0.05 cents, the neighbouring plot owner objected to the said construction stating that respondent No.3 issued house site certificate in favour of their relatives. When the petitioner demanded for proof of the house site patta, Xerox copies of the said documents were shown to the petitioner. Hence, the action of respondent No.3 in granting house site pattas in favour of respondent Nos.5 to 7 is challenged in this writ petition.

A counter came to be filed by respondent Nos.1 to 3 denying the averments made in the affidavit filed in support of the writ petition. A reading of the counter would show that respondent No.3 issued possession certificates in favour of respondent Nos.5 to 7 in the year 2007 and 2009 in respect of land in Sy.No.419/2 of Chinna Chowk Village to an extent of Ac.0.03 cents to each of them as the same was classified as A.W. (Assessed Waste) as per village accounts. It was categorically stated in the counter that it is not a patta land and is a government land. It was further stated that the land admeasuring Ac.4.00 in Sy.No.419/2 was assigned to one Amuru Narayana vide DKT No.356/76 on 04.02.1969. Subsequently, the land was resumed to the Government vide Ref. B/1073/94 dated 26.07.1994 for public purpose. Since then, it is in possession of the government. It is further stated that the village accounts do not anywhere indicate the name of the petitioner as owner and possessor of the said land as such the averments in the writ

petition are all false and invented for the purpose of this case.

On 03.05.2012 this Court while issuing notice before admission ordered maintenance of status-quo as on that day. In view of the above, the counsel for the petitioner contends that the petitioner is still in possession of the said land. But a perusal of the averments in the affidavit and also the counter filed by respondent Nos.1 to 3 would show that there is a dispute with regard to title. The petitioner claims that he purchased the said land from its lawful owner where as the Government in their counter stated that the land was originally assigned to one Amuru Narayana in the year 1969 and thereafter resumed the same in the year 1994 for public purpose. Since the dispute is with regard to title, the same cannot be adjudicated by this Court under Article 226 of the Constitution of India. Hence, I see no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed, leaving it open to the petitioner to avail the remedies available under law. No order as to costs.

Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

**JUSTICE C. PRAVEEN
KUMAR**

15.09.2015
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