

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Writ Petition No.27348 of 2011

-
Dated 10.06.2015
-

Between:

Vakkalagadda Santoshamma and another

... Petitioners

and

1.The Divisional Forest Officer,
Krishna at Vijayawada and 6 others.

...Respondents

Counsel for the petitioners: Mr.P.Sridhar Reddy

Counsel for respondents 1 to 6: GP for Forests

Counsel for respondent No.7: Mr.K.V.Raman, SC for APSFC

The Court made the following:

Order:

This Writ Petition is filed for a Mandamus to declare the action of the respondents in interfering with the petitioners' agricultural operations in Acs.31-00 of dry land in Survey No.454/1P of Katrenipadu Village, Musunoor Mandal, Krishna District, and their further action in trying to dispossess the petitioners therefrom as illegal, arbitrary, unjust and unconstitutional. The

petitioners sought for a consequential direction to respondent Nos.1 to 6 not to interfere with their possession and enjoyment of the above-mentioned land.

The brief facts leading to the filing of this Writ Petition are as under:

The petitioners claim that late Tatakuluri Nagaiah, who is the father of petitioner No.1 and grand father of petitioner No.2, was granted patta by the then estatedar in respect of Acs.16-00 cents of land in the above-mentioned survey number in the year 1943; that thereafter, the claim made by the husband of petitioner No.1, during his lifetime, for grant of ryotwaripatta in respect of the said land was rejected by the then Settlement Officer, Eluru; that in the revision petition, the said order was confirmed by the Director of Settlements; that in the second revision petition filed before the Chief Commissioner of Land Administration, the order under revision was set aside and the case was remanded to the Joint Collector, Krishna District, for fresh consideration; and that the same is pending.

With regard to another extent of Acs.15-00 cents of land in the same survey number, it is the case of the petitioners that a ryotwari patta was granted on 02-06-2003 in the revision petition filed by the father of petitioner No.1 by the Director of Settlements,

Hyderabad; that respondent No.2, who was not a party to the proceedings either before the primary or the revisional authority, has filed a revision petition before the Chief Commissioner of Land Administration, Hyderabad; and that the same was allowed by Order, dated 20-05-2013. However, this Court in W.P.No.24529 of 2013, filed by petitioner No.1, has suspended the same by interim order, dated 21-08-2013.

This Writ Petition came to be filed in September, 2011, when the petitioners' application for grant of ryotwari patta in respect of Acs.16-00 cents of land was pending. This Court by interim order, dated 29-09-2011, directed the respondents not to interfere with the petitioners' agricultural operations in respect of the land admeasuring Acs.31-00 cents in Survey No.454/1P of Katrenipadu Village, Musunoor Mandal, Krishna District.

Respondent Nos.3 to 5 have contested this Writ Petition by filing a counter-affidavit wherein they have *inter alia* claimed right over 400 hectares of land in Survey Nos.454 and 18 based on an allotment made by the Andhra Pradesh Forest Department. It is further pleaded that this land consists of two portions; that the first portion comprising 180 hectares in R.S.No.454/1P

is located between Katrenipadu and Chillaboinapalli Villages of Musunoor Mandal; that the second portion comprising 220 hectares covered by R.S.No.18 is located in Annapanenivarigudem of Musunoor Mandal; that respondent No.3 has raised cashew nut plantation in the year 1982 over an extent of 115 hectares; and that as the said plantation has not yielded desired result, the same was removed and Eucalyptus clonal plantations were raised on the said two portions of land. It is further pleaded that out of the 180 hectares of land in R.S.No.454/1P, an extent of 25 Hectares was kept vacant as the same was ridden with rocky boulders and hillocks and was expensive for reclamation; that on 04-01-2011, the petitioner made a bid to intrude into the said 180 hectares of land by using poclainer, excavator and ploughing tractors; and that the Deputy Plantation Manager of respondent No.3- Andhra Pradesh Forest Development Corporation (for short 'the Corporation') lodged a complaint in Musunoor Police Station, which was registered as Crime No.15 of 2011 under Sections 447 IPC, 2 FCA, 3 APLGA and 4 APLGA on 21-01-2011. It is further averred that there is no land admeasuring Acs.31-00 cents in RS.No.454/1P in Katrenipadu Village.

It is significant to note that the petitioners have assailed the action of respondent Nos.1, 2 and 5 in

causing interference with their possession. This Court, on 29-09-2011, has granted interim direction not to interfere with the possession of the petitioners over the land in Survey No.454/1P. Alleging willful disobedience of the said order, the petitioners have filed Contempt Case No.1488 of 2011. Respondent Nos.1 and 2 filed separate counter-affidavits in the said Contempt Case. In both the counter-affidavits, they have stated that they are not interfering with the agricultural operations being carried on by the petitioners over the land admeasuring Acs.31-00 cents in Survey No.454/1P and that the petitioners are trying to encroach upon the forest land. This Court, by Order, dated 27-01-2012, has disposed of the Contempt Case. The material portion of the order, which is relevant for the present purpose, reads as under:

“A perusal of the interim order, in respect of which Contempt is alleged, shows that this Court has given a specific direction to the respondents not to interfere with the petitioners’ possession of the land admeasuring Acs.31-00 in Survey No.454/P. As noted above, the stand of the respondents is that the petitioners are trying to occupy the land other than the land, in respect of which interim direction has been granted. Having regard to the stand of the respondents that they are not interfering with the

possession of the petitioners pertaining to the land covered by the Writ Petition, this Court does not propose to proceed further against the respondents with a direction to them not to disturb the petitioners' possession over the extent of Acs.31-00 of land in Survey No.454/1P. If the respondents feel that the petitioners are trying to misuse the interim order by occupying any other land, they shall be free to bring the same to the notice of this Court by filing appropriate application seeking suitable modification of the interim order.”

From the above noted facts, it is clear that, while the petitioners' claim for grant of ryotwari patta for Acs.16.00 cents of land is pending, after remand, before the Joint Collector, Krishna District, W.P.No.24529 of 2013, filed by the petitioners in respect of the remaining Acs.15.00 cents, is pending before this Court, in which an interim order, suspending the order of the Chief Commissioner of Land Administration, is subsisting as on today.

Though, in the counter-affidavit filed in the present Writ Petition, respondent Nos.3 to 5 have denied the existence of Acs.31-00 of land, in the counter-affidavit filed in Contempt Case No.1488 of 2011, they have categorically admitted the existence of the said extent-, besides making a specific statement

that they have not been interfering with the agricultural operations being carried on by the petitioners over the said land.

Mr.K.R.Raman, learned Counsel representing respondent Nos.3 to 5, has not brought to the notice of this Court, any complaint made by his clients before this Court regarding the petitioners encroaching upon the land belonging to the Corporation as permitted by this Court in Order, dated 27-01-2012, in CC.No.1488 of 2011.

In the light of the above facts, I have no hesitation to hold that the petitioners are in possession of Acs.31.00 cents of land in Survey No.431/P of Katrenipadu Village and that respondent Nos.3 to 5 have not proved the alleged encroachment by the petitioners over the land belonging to the Corporation. Therefore, respondent Nos.3 to 5 cannot act contrary to the undertaking given by them in CC.No.1488 of 2011. Accordingly, respondent Nos.3 to 5 are restrained from interfering with the petitioners' possession of Acs.31-00 cents of land in Survey No.451/P of Katrenipadu Village, till their claims in respect of the lands admeasuring Acs.16-00 cents and Acs.15-00 cents are finally adjudicated by the Joint Collector and this Court respectively.

The Writ Petition is, accordingly, allowed to the

extent indicated above.

As a sequel to disposal of the Writ Petition, interim order, dated 29-09-2011, is vacated and WVMP.No.4624 of 2011 and WPMP.No.33747 of 2011 are disposed of.

(C.V.Nagarjuna Reddy, J)

Dt: 10th June, 2015
LUR