

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 173 of 2011

ORDER:

Challenging the action of the respondent authorities in threatening to dispossess them from the lands in their occupation, this writ petition is filed.

2. It is the case of the petitioners that they were granted patta over an extent of Ac.2-50 cents each of dry land in Survey No.521-CP of Kolanukuduru village, Manubolu mandal, Nellore district in 1997; consequent to which they made the land fit for cultivation and continued to cultivate the land and the land is in their possession. They state that their names were entered in the revenue records and were also issued with pattadar passbooks and title deeds. The petitioners allege that respondents 4 to 10 are influencing the official respondents and causing hindrance to their peaceful possession and enjoyment. Hence, the petitioners pray for mandamus declaring the action of respondents 1 to 3 in threatening to dispossess them without issuance of notice and without following due process of law, as illegal.

3. Heard Sri Shaik Jilani, learned counsel for the petitioners, learned Assistant Government Pleader for respondents 1 to 3 and Sri P. Sridhar Reddy, learned counsel for respondents 4 to 10.

4. The writ petition came to be filed on 09.01.2011. This Court, while ordering notice before admission on 12.01.2011, ordered *status quo* to be maintained with respect to possession as on that day.

5. A counter affidavit and also a vacate petition in WVMP No.1816 of 2011 was filed by the Tahsildar, Manubolu mandal, seeking vacation of status quo orders. In the counter affidavit, it has been admitted that the petitioners were granted pattas in the year 1997 and it is also admitted that the petitioners were put in possession. However, it has been stated that by proceedings Rc.B.403/98 dated 15.02.2001, the pattas granted in favour of writ petitioners 2 to 4 were resumed for violation of Condition No.2 of the grant i.e., non-cultivation. So far as the 1st petitioner is concerned, there were no proceedings. The respondents 1 to 3 deny any influence being exerted on them by respondents 4 to 10, and they also deny any interference. A mention was also made with respect to the enquiry proposed to be conducted on the representation filed on behalf of the petitioners by one Marella Rajendra Babu, District Legal Aid Service Agent, Gudur.

6. Learned counsel for the petitioners practically repeated the averments contained in the writ affidavit. The petitioners' counsel denies any notice having been received by his clients with regard to cancellation of pattas.

7. Sri P. Sridhar Reddy, learned counsel for respondents 4 to 10, contends that his clients have nothing to do with the land which has been assigned to the petitioners and the allegation that his clients are influencing the authorities has been categorically denied. Learned counsel further submits that there is no material in support of the allegations that were made against his clients.

8. Having considered the rival submissions, the averments of the Tahsildar that the pattas came to be cancelled on 15.02.2011, though denied by the petitioners, in the absence of a categorical reply affidavit before this Court by way of a rejoinder, prima facie, the statement of the Tahsildar needs to be accepted as true and correct. Further, considering the specific denial of the petitioners' counsel that his clients were not aware and were not issued with a notice and that the petitioners had not received any proceedings with respect to cancellation of pattas and further considering the specific assertion that the petitioners continue to be in possession and enjoyment of the property which has been assigned to them, liberty is given to the petitioners to approach the appellate authority by way of filing an appeal within three weeks from the date of receipt of a copy of this order; where upon the appellate authority shall consider the same and pass orders, in accordance with law, within a period of four months from the date of filing of appeal.

9. In terms of the liberty given to the petitioners, the writ petition is disposed of. No costs.

Miscellaneous petitions, if any pending in this writ petition, shall stand closed, in consequence.

CHALLA KODANDA RAM, J

12th March, 2015

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