

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.26965 of 2011

ORDER:

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This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioners seeking the following relief/s:-

“....to issue a Writ/Order/Direction more particularly one in the nature of writ of mandamus declaring the Impugned Notification dt.17.09.2011 issued by the 2nd respondent in respect of patta lands of petitioners situated in Sy.No.20 of Jayavaram, Tangutur Mandal, Prakasam District as illegal, arbitrary, unjust, without jurisdiction and in violation of Art.14 and 300-A of the Constitution of India and consequently set aside the impugned Notification dt.17.09.2011 issued by the 2nd respondent in respect of patta lands of petitioners situated in Sy.No.20 of Jayavaram, Tangutur Mandal, Prakasam District and to pass such other order or orders as are deemed fit and proper in the circumstances of the case and in the interest of justice.”

(Reproduced Verbatim)

2. I have heard the submissions of the learned counsel for the writ petitioners and the learned counsel for the respondents. I have perused the material record.

3. The case of the writ petitioners, in brief, is as follows:-

“The subject property, i.e., land of Ura Cheruvu of Karumanchi village is their ancestral property. One Kanchibhotla Chenchamma is the grandmother of the petitioners. After her demise, the petitioners have come into possession of the same as successors and are eking out their livelihood by cultivating the said land in an extent of Acs.7.80 cents in survey no.20 of Jayavaram village. As they are cultivating the said lands, their names are also entered in the Re-Settlement Register and other revenue records. While so, the second respondent had issued the impugned auction notice dated 17.09.2011 for a period of three years fixing the date of auction as 29.09.2011 by including the subject lands in the auction notice. Feeling aggrieved of the same, they had filed the writ petition to declare the impugned auction notice as arbitrary, unjust, without jurisdiction and violative of the Articles 14 and 300-A of the Constitution of India and consequently to set aside the impugned auction notice and for

other reliefs.”

4. The writ petitioners, in support of their contentions in the writ petition, had placed reliance upon the Report dated 28.05.2008 of the Tahasildar, Tangutur in R.C./214/2008 wherein, according to the petitioners, the revenue authorities have affirmed their right, title, interest and also the possession over the subject property and the fact that the petitioners were also granted pattadar passbooks and title deed books in respect of the subject lands.

5. The second respondent filed a counter denying the averments in the writ petition *inter alia* stating as follows:-

“The public notice for auction was issued is true. The tank bed area in a total extent of Acs.24.07 cents in Karumanchi Village in survey no.20 in Jayavaram is in possession of the institution under the lease right from the year 1971 as per the letters issued by the trustee of the tank. A suit in O.S.No.874 of 1981 was filed by one Kakumani Venkata Ramana Reddy, the then trustee of the tank against Kamajala Purnachandra Ramireddy, the Sarpanch of the Gram Panchayat, Karumanchi, for declaration. The said suit was decreed on 28.08.1991. As per the decree in the said suit, the defendant therein has no right to interfere with the plaintiff’s management of the schedule properties under A and A1 therein. The subject land is part of the above said village and a part of Ura Cheruvu tank of Karumanchi village. The land in survey no.20 of Jayavaram is an Inam land. The said K.Chenchamma, who was the then inamdar, belonged to the community of Hindu Brahmin; whereas the petitioners herein belong to Reddy community; and that in that view of the matter the petitioners are not the legal heirs of the said K.Chenchamma. The village account no.3 (Adangal) for Faslis 1402 to 1406 discloses that the enjoyer of the subject property is Karumanchi Cheruvu Manyam. The subject property was endowed to the second respondent institution and was duly entered in the register of the endowments after due approval. The land was given on lease by the then Trustee of the tank. But, the petitioners have managed the revenue authorities and got included their names in the village account no.3 for

Faslis 1418, 1419 and 1420. The Tahsildar, Tanguturu, in his proceedings in Rc.No.DT/214/2008 dated 24.11.2010 had submitted an enquiry report stating that on account of certain lapses since certain objections were raised against the pattas of the petitioners, the pattas were cancelled. In view of the said subsequent report of the said Tahsildar, the petitioners have no right, title and interest or possession over the subject property and that therefore, they have no right whatsoever to question the auction notice. The writ petition is *de void* of merit and is liable to be dismissed.”

6. The learned counsel for both the sides, while making submissions in line with the respective pleadings of the parties, had stated that in view of the fact that the complex issue of title in regard to the subject land is involved, the writ petition may be disposed of giving liberty to the parties to approach a competent forum and seek appropriate remedies, which the law permits, by following the procedure established by law and.

7. The learned counsel for the petitioners also would submit that in paragraph 15 of the counter affidavit of the second respondent, the deponent had admitted that the petitioners have obtained interim stay orders insofar as the subject land is concerned and that the said orders are being duly respected and that the possession of the petitioners over the subject land is not being interfered with for the last three years and that the said averment in the counter affidavit would *prima facie* show that the petitioners are in possession of the subject land and that therefore, a direction may also be given protecting the possession of the petitioners till the final disposal of the proceedings that the parties may institute in future before an appropriate forum.

8. Recording the aforesaid submissions of the learned counsel for both the sides, the writ petition is disposed of giving liberty to both the parties, i.e., the writ petitioners and the second respondent to approach any appropriate forum and seek appropriate remedies, which the law permits, if the parties so desire and if they are so advised. Since the possession of the petitioners over the subject land is *prima facie* admitted and undisputed, it is

made clear that the possession of the petitioners shall not be disturbed except in strict accordance with the procedure established by law. It is made clear that both the parties shall initiate the intended appropriate proceedings before any competent and appropriate forum in accordance with the procedure established by law as expeditiously as possible and at any rate not later than two months from the date of the receipt of a copy of this order and in such a case cooperate for disposal of such proceedings/cases as expeditiously as possible. No costs.

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

M.Seetharama Murti, J

21st December, 2015
Bvv