

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.1564 OF 2015

ORDER:

The petitioners all in numbering about 89 claim to be plot owners and residents of Venkataramana Colony, situated in Sy.No.93/2 of Mansoorabad Village, Saroornagar Mandal, Ranga Reddy District. They are all the purchasers of the private property in the year 1998 through the registered sale deeds in a lay out said to have been approved by the Gram Panchayat. The extents of land which have been purchased by the petitioners ranging from 150 sq. yards to 175 sq. yards. The lay out said to have been prepared over an extent of Ac.5.00 cents originally belongs to one Smt B. Gandamma, W/o. late B. Mysaiah, resident of Mansoorabad Village, Saroornagar Mandal, Ranga Reddy District. Most of the petitioners claimed to have constructed the houses and they were also assessed to municipal tax. The petitioners were provided with basic amenities such as power supply, Gas connections, water supply etc.

While things stood thus, the officials of the respondents particularly respondent Nos.4 to 7 said to have been visited the colony on 20.01.2015 and informed the residents therein that they all need to submit the applications seeking regularisations of their respective plots in terms of G.O.Ms.Nos.58 and 59 dated 30.12.2014, by paying the regularisation fee/cost as indicated in the said G.Os. If the petitioners do not comply with their instructions and apply for regularisations in terms of the above said G.Os, the petitioners would be evicted summarily by force. In the light of the oral threats of the revenue officials of the respondents, the petitioners having no other go, approached this Court seeking protection. Hence, this writ petition.

Sri S. Rama Chandra Rao, learned Senior Counsel appearing

for the petitioners by making specific reference to various documents filed along with the writ petition in particular, the sale deeds executed on behalf of the owners of the land Smt B. Gandamma and also by drawing the attention of the Court to the lay out plan submits that the petitioners are living in their respective houses having acquired the property through the valid sale deeds from the original land owner and pattadar Smt B. Gandamma. He further submits that there is no valid cause for the officials to threaten the petitioners to avail the scheme as provided under the G.O.Ms.Nos.58 and 59 and the said scheme is not applicable to the petitioners. Assuming for the sake of arguments, the petitioners had not acquired any valid right from Smt B. Gandamma, the petitioners are required to be put on notice, enquiry need to be conducted and only thereafter any such action that is be permissible under law, may be taken and not otherwise. It is further contended by the learned senior counsel for the petitioners that as on the date, to the best of their knowledge, the patta issued in favour of Smt B. Gandamma and the pattadar pass book issued in her favour has not been cancelled or disturbed with. In that view of the matter, it is a specific contention of the learned senior counsel for the petitioners that there is no material on record to support the oral contention of the authorities to come to a conclusion that the properties in occupation of the petitioners which they have originally acquired from the said Smt B. Gandamma by paying consideration. It is his specific submission that no enquiry whatsoever in that direction was ever conducted or alleged to have been conducted. In those circumstances, the learned senior counsel for the petitioners prays this Court to direct the respondents not to interfere with the peaceful possession and enjoyment of the petitioners' properties under threat of taking coercive steps, if the petitioners do not chose to submit the applications and pay the regularisation fees in terms of the G.O.Ms.Nos.58 and 59.

On the other hand, the learned Assistant Government Pleader

Sri R. Pavan Reddy, placed on record the instructions received from the Deputy Collector and Tahsildar, Saroornagar Mandal which reads as under:

“It is submitted that as per the Revenue Records the land in sy.No.93 to an extent of Ac.17.13 guntas situated in Mansoorabad Village is classified as “Sarkari” (government) on verification of this Office records it is revealed that an extent of Ac.5.00 guntas in sy.No.93 of Mansoorabad Village was assigned in favour of Smt Gandamma, W/o. late Mysaiah, R/o. Mansoorabad Village and it was implemented in the Paisal Patti for the year 1988-89 by allotting Sub-Division No.93/2.

It is submitted that on verification of this Office File it is noticed that the original Assignee Smt Gandamma, W/o. late Mysaiah has violated the conditions of Assignment and Prohibition of Transfer Act, 1977 and changed the nature of the Land in to Non-Agriculture purpose and alienated in favour of different persons by making the land in to plots which is known as Venkataramana Colony. As such the said land has been resumed in to Government under the Act in the year 2005 vide proceedings of the Deputy Collector & Tahsildar, Saroornagar Mandal No.B/1771/2005, Dated 19/05/2005 and the possession of the land was taken into Government custody under cover of Panchanama dated 26.05.2005 by the Mandal Revenue Inspector, Saroornagar Mandal.

Further it is submitted that the Government of Telangana on a policy decision have introduced a GO Ms.Nos.58 and 59 dated 30.01.2014 for regularization of possessions in Government lands in which the colony in the name of Venkataramana Residential Welfare Association situated in Government land Sy.No.93/2 of Mansoorabad

village is identified as residential houses colony and to this effect notices to all the occupants who are in possession by way of structures have been issued with a request to avail the opportunity given by the Government and for filing applications under GO Ms.Nos.58 and 59, dated 30.12.2014 Assn.II, Revenue Department. Besides this issue the writ petitioners herein who received the notices have approached this Court and filed this present writ petition seeking necessary directions to this respondent in the matter.

For the reasons stated above, it is therefore prayed that this Court may be pleased to dismiss the writ petition and pass such other order or orders as this court may deem fit and property in the circumstances of the case.”

Sri R. Pavan Reddy contends that a perusal of the above extracted instructions, it is clear that the land in Sy.No.93/2 of Mansoorabad Village, Saroornagar Mandal, was repossessed as long back as in the year 2005 by the proceedings in B/1771/2005 dated 19.05.2005 of the Deputy Collector and Tahsildar, Saroornagar Mandal and the possession was taken back under the cover of panchanama dated 26.05.2005 by the Mandal Revenue Inspector, Saroornagar Mandal. These cancellation orders were not challenged and have become final. Inasmuch the petitioners and others who are in occupation of these residential houses in Venkataramana colony were infact issued notices to that effect giving an option and an opportunity for them to avail the scheme formulated by the Government under G.O.Ms.Nos.58 and 59. The learned Assistant Government Pleader for the 1st respondent further submits that it is for the petitioners to choose to avail the scheme or otherwise and in which event depending on their choice, the respondents authorities would be taking necessary action in terms of the G.O.Ms.Nos.58 and 59. He further contends that there is no compulsion on the petitioners to avail

the scheme and the authorities are not insisting to avail the scheme inasmuch as the scheme is a voluntary scheme which provides an opportunity to the persons who are in occupation/believed to be in occupation of Government land to acquire a legal right from the Government subject to fulfilment of the conditions laid down in the said G.Os.

In the light of the respective arguments, I am inclined to agree with the arguments of the learned Assistant Government Pleader that the G.O.Ms.Nos.58 and 59 provide the opportunity to the individuals who constructed their houses in the property belonging to the Government. A perusal of the said G.Os, does not disclose any compulsive element being present to compel any individual to apply or to opt to avail the scheme formulated under the said G.Os. Even in a case where an individual who might have acquired the particular property by paying consideration to a third party in the ultimate analysis, if he comes to the opinion or he has reason or any other material at this point of time to entertain a doubt about the right and title which he has acquired, he can avail the scheme formulated under the G.Os. An individual to be sure about his acquired right and to perfect his right which otherwise may be defective and may chose to opt or avail the scheme. Further considering the fact that the learned senior counsel seriously disputes any notices having been issued to the petitioners as contended by the learned Assistant Government Pleader suffice it to say that no such notices have been placed before this Court. Even assuming notices have been issued (copies of which have not been placed before this Court), the same shall not be considered as compelling the petitioners to avail the scheme formulated under G.O.Ms.Nos.58 and 59. At the same time, it is needless to mention that in view of the settled principles of law, even encroachers are required to be given notices and opportunity before they could be deprived enjoyment of their properties and their rights

shall not be interfered with and disturbed without following the due process of law. Inasmuch as on today, it is not the case of either of the parties that any notices or any proceedings as such have been initiated against the petitioners proposing to evict or dispossess, I do not consider it to make any order with respect to the same.

In those circumstances, subject to the observations made above, the writ petition is disposed of. No order as to costs.

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

JUSTICE CHALLA KODANDA RAM

Date:30.01.2015

Gk.

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

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