

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.20903 of 2011

ORDER:

Heard Mr. Kunareddy Anji Reddy for petitioner and Assistant Government Pleader for respondent.

2. The petitioner prays for Mandamus declaring the action of respondent in taking steps to dispossess the petitioner from enjoyment of an extent of Ac.0.03 cents in Sy.No.36 of Gopalapatnam Village, Thondangi Mandal, East Godavari District without following the procedure prescribed by law and allotting to third parties is *ex facie* illegal, arbitrary and unconstitutional.

3. Briefly stated the case of petitioner rests upon the possession certificate dated 16.03.2006 (Ex.P1), no objection certificate dated 24.03.2007 (sic 24.03.2009) and the notice dated 30.05.2009.

The beginning and ending of petitioner's case is in relation to Sy.No.36 and the exhibits referred to above.

4. On 26.07.2011, the following order was passed:

"The claim of the petitioner is that, on 16.03.2006, the land comprising of plot-I of an extent of Ac.0.03 cents has been assigned on market price in favour of the petitioner herein by the Mandal Revenue Officer, Thondangi Mandal, East Godavari District. It is also stated that the assignment is till subsisting.

Learned Government Pleader seeks time to obtain instructions in the matter.

Call after three weeks in the motion list.

Until further orders, the petitioner shall not be dispossessed of Ac.0.03 cents of land which has been assigned to him on market price, so long as the assignment is subsisting."

5. The respondent filed counter affidavit denying each and every allegation raised by the petitioner. The case of respondent is that the petitioner is not in possession of Sy.No.36 but is in possession and

enjoyment of Sy.No.35 of Gopalapatnam village, which is classified as cart track poramboke. It is stated that either on account of objections filed by the people in the neighbourhood or otherwise, the documents, which are relied upon by the petitioner, cannot be acted upon and cannot create any right in favour of petitioner. It is further stated that with a view to examine and decide the possession, entitlement etc. notice dated 30.05.2009 was issued calling upon the petitioner to attend the office of respondent on 08.06.2009 and without attending the enquiry, the writ petition is filed. Counsel appearing for the petitioner submits that explanation was given to notice dated 08.06.2009.

6. In normal circumstances, this Court would have considered the inconsistencies between the pleadings and the proof of documents filed by petitioner. Even by the time the writ petition was filed, notice is issued, therefore, the prayer that without following procedure, there is threat of dispossession, is unavailable and premature. The respondent goes on record by stating that action, if any is required against petitioner, will be considered in accordance with law. I am satisfied that the writ petition can be disposed of by this order.

- a) The respondent is directed to conclude the enquiry initiated pursuant to notice dated 30.05.2009 within eight (8) weeks from the date of receipt of a copy of this order.
- b) The petitioner, if so advised, is given liberty to file further explanation within four (4) weeks from the date of receipt of a copy of this order.
- c) The respondent, in the pending enquiry, is directed to undertake the identity of the property, eligibility of petitioner and all aspects are gone into independently and comprehensive decision is taken to give quietus to litigation.

The writ petition is disposed of. As a sequel, the miscellaneous

applications, if any pending, shall stand closed. There shall be no order as to costs.

S. V. BHATT, J

August 3, 2016
DSK