

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.32182 of 2011

ORDER :

The Writ Petition is filed seeking to issue a writ or writs, more particularly in the nature of writ of *Mandamus* declaring the action of the respondents in not completing the process of survey and settlement in Malleswaram Inam Village, Lingapalem Mandal, West Godavari District, after declaring the Malleswaram Village as Inam Village and not issuing notices under Section 9(2) and final declaration under Section 13 of Survey and Boundaries Act detrimental to the interest of the Inamdars, as illegal and arbitrary and consequently, direct the respondents to complete the process and settle the claim of petitioners in accordance with the provisions of A.P. (Andhra Area) Inams (Abolition and conversion into Ryotwari) Act, 1956 in the interest of justice.

The case of petitioners is that one, K.Pitchaiah originally owned Ac.932.48 cents, who is grand father of the 1st petitioner and great grand father of petitioners 2 to 4. The said Pitchaiah has two sons namely, Buchi Ramaiah and Venkaiah. Sri Buchi Ramaiah has two sons namely, Prakash Rao and Lakshmana Rao i.e., petitioner No.1 herein. Sri Venkaiah has three sons namely, Anantha Rao, Lingaswamy and Pitchaiah. Sri Hanumantha Rao has one son i.e., the petitioner No.4 herein. Sri Linga Swamy has two sons namely, Murali Rao i.e., petitioner No.3 herein and Rambabu. Sri Kotagiri Pitchaiah was the original Inamdar of above said Inam lands admeasuring Ac.932.48 cents of Malleswaram Village.

After his death, the said lands were inherited by his two sons namely, Buchi Ramaiah and Venkaiah. The share of Buchi Ramaiah was inherited by his two sons namely, Prakash Rao and Lakshman Rao and his grandson Kamalakar Rao. The share of Venkaiah was inherited by three sons namely, Anantha Rao, Lingaswamy, Pitchaiah and the grandsons Sri Jagapathi Rao, Murali Rao and Rambabu.

It is the further case of petitioners that after the death of original pattedar Sri Kotagiri Pitchaiah, his two sons, Buchi Ramaiah and Venkaiah inherited the said property and A.P. (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act 1956 was came into force. Therefore, Malleswaram Village being a Inam Village, Sri Buchi Ramaiah and Venkaiah were declared as Inamdars. Pursuant to the commencement of the said Act, the Government has taken possession of entire land in the year 1969. As Inam privilege, the Inamdars are entitled to $1/3^{\text{rd}}$ share in each and every bit of the land in the village. As per records, the total extent of land in Malleswaram village is Ac.932.48 cents. Out of total extent of Ac.932.48 cents, the Inamdars are entitled to $1/3^{\text{rd}}$ share, excluding the land left over for communal purpose. The cultivating farmers, who are in possession of the land, are entitled to hold the possession of the land in their occupation for an extent of $2/3^{\text{rd}}$ land and the Inamdars are entitled to $1/3^{\text{rd}}$ extent of the said land.

It is the further case of petitioners that the survey is not conducted as per Section 6 of Andhra Pradesh (Andhra Area) Inams (Abolition of conversion into Ryotwari) Act, 1956 and petitioners are entitled to $1/3^{\text{rd}}$ share of total land, excluding the roads and tanks. Some of the

farmers were in occupation of land when the Act came into force. The farmers, who are in the possession of the land, have fairly given 1/3rd share to petitioners. Though the possession of lands was taken over by the Government, no survey has been conducted in the village, however, as per the proceedings of the Assistant Director of District Survey and Land Records, vide DO Rc.No.B1 2407/87, dated 24-12-1987, the survey was already conducted in the Inam Villages mentioned therein and the records were already transmitted to the Tahsildars of erstwhile talukas.

It is submitted by the learned counsel for petitioners that no notice was issued under Sections 9(2) and 13 of Survey and Boundaries Act and petitioners have made several representations to authorities to complete the survey and settle boundaries of the subject lands. As no action is taken, the present Writ Petition is filed.

In the counter-affidavit filed by respondents 1 to 4 it is stated that Malleswaram Village in Lingapalem Mandal is an Inam village, which comes under the provisions of the A.P. (Andhra Area) Inams (Abolition and conversion into Ryotwari) Act, 1956. Enquiries under Section 7(1) of the Act in respect of Malleswaram Village have been completed after observing all the formalities under the Act. Fair Land Register was got prepared by the Survey Department as per survey conducted in the years 1968 and 1983. Ryotwari pattas under Inams Abolition Act were granted for an extent of Ac.835.17 cents to 78 ryots. It is stated that the process of granting pattas was completed long back and if petitioners had any objection, they ought to have filed objections by that time itself as per procedure laid down under the Act. The entire process was completed in

the year 1983 itself and the ryots to whom pattas were issued are enjoying the lands as per pattas issued by the Government. The petitioners, being residents of village, are aware of these developments.

Additional counter-affidavit is filed by the 4th respondent stating that the report was called from the Assistant Director, Survey & Land Records with respect to the writ petition and that the process of taking the Inam land by the Government was completed in the year 1983 and compensation to inamdars for which they are eligible was also paid to them and they also taken the compensation without any objection. It is stated that after observing all the formalities under the Act, Fair Land Register was got prepared by the Survey Department as per the survey conducted in the years 1968 and 1983. It is stated that during the review meeting held on 10-02-1989 in connection with implementation of the A.P. (Andhra Area) Inams (Abolition and conversion into Ryotwari) Act, 1956 under the Chairmanship of District Revenue Officer, West Godavari at Collector's Office, West Godavari, Eluru with the Tahsildars who are having Inam lands in their jurisdiction prior to introduction of the said Act, all formalities under the said Act were completed in the respective villages. The said fact was also informed by the then Assistant Director, Survey and Land Records, Eluru to the counsel for petitioners vide his Lr.No.LPR.A1/499/10, dated 19-03-2010. It is also stated that ryotwari pattas were issued to Sri Mada Papa Rao and Sri Annavarapu Subba Rao for an extent of Ac.2.95 cents and Ac.1.05 cents in R.S.No.48/2 & 48/1 of Malleswaram Village. After the survey process under the Inams Abolition Act was completed, ryotwari pattas were issued. It is also stated that the

son of Kotagiri Pichaiah namely, Sri K.Buchi Ramaiah and the grandson namely, Sri K.Venkata Surya Prakasa Rao have sold away the land jointly measuring an extent of Ac.1.44 cents in R.S.No.78/2 on 02-07-1971 to Sri B.Lakshmaiah, son of Pullaiah, resident of Singagudem village of Lingapalem Mandal duly stating that the said land was derived by them as 1/3rd share under Inams Abolition Act, 1956, which goes to show that process of survey under Inams Abolition Act was completed long back. It is stated that villagers of Malleswaram Village are frequently requesting to mutate their names in web land and issuance of new pattedar passbooks, as no mutations have been processed till date in view of the pendency of the writ petition.

Counter-affidavit is filed by the 12th respondent stating that writ affidavit is very vague, no particulars have been given in the writ petition and the important factual aspects are suppressed. It is also stated that enquiry was completed by the year 1983 and 78 ryots were granted ryotwari pattas. It is further stated that petitioners cannot claim ryotwari pattas in respect of poramboke lands and reiterated the contents in the counter of the respondent No.4. The implead petitioner also claim that he has purchased Ac.49.96 cents in the said inam land and having purchased the same, he has also given history of vendors and stated that petitioners never objected to the possession of respondents and stated that writ petition is filed belatedly and liable to be dismissed on that ground.

The learned counsel for petitioners submit that as per Sections 9 and 13 of the Survey and Boundaries Act, respondents are bound to issue notices. He also submits that petitioners' ancestors are inamdars and after

issuing notice, respondents are bound to conduct survey and complete the process of granting pattas and no such exercise is undertaken though petitioners have made several representations to the authorities and it is stated that the respondents have always expressed their inability for producing the records. The so-called implead petitioners in collusion with the official respondents have allowed several transactions in respect of subject lands affecting the rights of petitioners.

On the other hand, learned Assistant Government Pleader submits that the process of survey was conducted long back and pattas were also granted to 78 persons and if petitioners are aggrieved by the same, they can prefer an appeal under Section 7(2) of the Act and after a long lapse of time, the petitioners cannot ask for conduct of survey.

The learned counsel appearing for the 12th respondent submits that pattas were granted to several persons long back and if petitioners had any grievance, they would have filed appeal against the same and without any particulars, petitioners filed the present writ petition, therefore, the writ petition is liable to be dismissed on that ground. He also submitted that survey was conducted before 1983 and pattas were also issued to several persons and the 12th respondent purchased Ac.49.96 cents in the said inam land, but petitioners never objected to the same, though they are residents of the village. At this point of time, the claim of petitioners cannot be entertained and the writ petition is not maintainable and liable to be dismissed on the ground of laches.

The petitioners filed Reply-Affidavit reiterating the averments in the writ affidavit and denying the contents of the counter-affidavit.

Even according to the writ affidavit it is stated that farmers have fairly given 1/3rd share to petitioners, but no particulars were given as to who are the farmers who have given 1/3rd share to petitioners. Even para 8 of the writ affidavit goes to show that survey was conducted by the Assistant Director of Survey and Land Records vide DO Rc.No.B1 2407/87, dated 24-12-1987 and even according to petitioners, the survey was conducted on 24-12-1987 and petitioners say that they given several representations to authorities, but no dates or particulars of the same are given. The petitioners also claim that poramboke lands also vested with the inamdars, but as per Section 2-A of the A.P. (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956, the Inamdars cannot get patta in respect of poramboke land. Section 2-A of the A.P. (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956 reads as follows:

"Section 2-A:- Transfer to, and vesting in the Government of all commercial lands, Poramboke etc., in inam lands:- Notwithstanding anything contained in this Act all commercial lands and Porambokes, grazing lands, waste lands, forest lands, mines and quarries, tanks, tank-beds and irrigation works, streams and rivers, fisheries and ferries in the inam lands shall stand transferred to the Government and vest in them free of all encumbrances."

In the counter-affidavit filed by the 4th respondent it is clearly stated that one, Mada Papa Rao and Annavarapu Subba Rao were granted pattas for an extent of Ac.2.95 cents and Ac.1.05 cents in R.S.Nos.48/2 & 48/1 of Malleswaram Village of Lingapalem Mandal. The same is not disputed by petitioners and in fact, learned counsel for petitioners contends that petitioners have no grievance in respect of the said persons, as such it

cannot be said survey was not conducted. The petitioners have not given specific particulars with regard to date from which they have been agitating their rights. Granting of pattas in respect of some persons goes to show that only after survey is conducted, the pattas are issued. Copies of ryotwari pattas granted to persons were filed in the counter-affidavit filed by 12th respondent, which goes to show that only after conducting enquiry under the Act, the said pattas were issued and if petitioners had any grievance for grant of pattas, they should have questioned the same. The petitioners have not given particulars as to when they approached the authorities. The affidavit in support of writ petition lacks in particulars and is vague, basing on the same no *mandamus* as prayed for can be issued. Even according to petitioners, several transactions took place in the village and some of the implead petitioners are claiming to be purchasers of the land. Therefore, this Court cannot go into the disputed question of fact and grant relief.

In view of the facts and circumstances, I do not see any merit in the Writ Petition and it is accordingly dismissed. No order as to costs.

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

A. RAJASHEKER REDDY, J.

Date: 28.11.2016

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