

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.20963 OF 2008

ORDER:

The case of the petitioners is that the 1st and 2nd petitioners purchased the property to an extent of 423.33 sq.yards, situated in Survey No.9 & 10/2 at Sarpavaram Village, Kakinada Mandal, East Godavari District from Chollangi Sreenu and 6 others through registered document bearing No.1517 of 2007, dated 07.02.2007 for a valuable consideration of Rs.3,52,000/-. The 3rd respondent also purchased the property to an extent of 387.5 sq.yards through registered document bearing No.16169 of 2006, dated 23.11.2006 for a valuable consideration of Rs.2,91,000/-, and also purchased another land to an extent of 410.66 sq. yards, situated in Survey No.9 & 10/2 of Sarpavaram Village, Kakinada Mandal, East Godavari District through registered document bearing No.1516 of 2007, dated 07.02.2007 for a valuable consideration of Rs.3,41,000/- from Chollangi Sreenu and 6 others. The vendors of the petitioners got the said property through their ancestors by virtue of sale deed bearing No.1313 of 1961 dated 20.03.1961. From the date of purchase the petitioners are in possession and enjoyment of the said property without any interruption. While so, the respondents came to the lands of the petitioners on 18.09.2008 and 20.09.2008 and tried to dispossess the petitioners without any notice and without

following due process of law. Though the petitioners submitted the documents that they are having title and possession in respect of the said property, the respondents are interfering with the rights of the petitioners without there being any lawful authority and there is a threat of dispossession. Aggrieved by same, present writ petition is filed.

The Respondents filed counter stating that the 1st petitioner owns lands in Survey No.9/2 of Sarpavaram Village; that there are Government Canal Poramboke land in Survey No.9/1 and Cart Track Poramboke in Survey No.16; and that in the vicinity, there is no dispute regarding the occupation of petitioner's own land in Survey No.9/2. It is also stated that when the petitioners attempted to lay fencing on 23.09.2008 with a view to build a house in the Canal Poramboke land in Survey No.9/1 and Cart track poramboke in S.No.16, the villagers complained orally to the Tahsildar. Hence the Mandal Surveyor, Kakinada Rural and Village Revenue Officer, Sarpavaram were deputed to see that the petitioners are refrained from erecting a house. They have removed the wood fencing which was laid in Survey No.9/1, at the time of their visit. It is further stated that after this Court passed order of *Status quo* the petitioners tried to erect thatched shed which was removed earlier. Hence, finally prayed to dismiss the writ petition.

This Court while admitting the writ petition on 25.09.2008 granted *Status quo*.

Heard learned counsel for the petitioners and the learned Assistant Government Pleader for Revenue.

It is to be seen that even according to counter affidavit the petitioner is having lands in Survey No.9/2 of Sarpavaram Village and the allegation against the petitioners is that when the petitioners are trying to encroach the Government lands in Survey No.9/1 and also the Cart track poramboke land in survey No.16, they were prevented from doing so and the same is not disputed by the petitioners by filing reply affidavit. When the petitioners are not having any land in Survey No.9/1 they cannot encroach the Government lands in survey No.9/1 and the Cartrack Poramboke in Survey No.16. At the same time the respondents cannot also prevent the petitioners from the land in Survey No.9/2 of the Sarpavaram village as the same is not disputed in the counter affidavit.

In view of the above facts and circumstances, it is stated that since the petitioners have already encroached the Government Land in Survey No.9/1 and Cart Track Poramboke land in survey No.16, it is open for the respondents to evict the petitioners by issuing notice and

following due process of law. Till then the *Status quo* order granted on 25.09.2008 shall continue.

Accordingly, the writ petition is disposed of. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

26.10.2016
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A.RAJASHEKER REDDY, J

