

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No.5405 and 8796 of 2011

COMMON ORDER:

These two Writ Petitions are being disposed of by this common order as they relate to the relief with regard to the alleged dispossession of the petitioners from the lands in their occupation in Sy.No.4, Thalla Dharmaram Village, Sarangapur Mandal, Karimnagar District.

The petitioners, in both the Writ Petitions, claim to be in possession of an extent of Ac.1.20 guntas each. The simple case of the petitioners is that the land situated in Sy.No.4 is a government land admeasuring more than Ac.1300; and pattas were granted in respect of the entire land in favour of poor persons, including the petitioners of Thalla Dharmaram Village, and surrounding villages after the decision of the Assignment Committee and orders of the Revenue Divisional Officer, Jagityal. The petitioners have been cultivating the lands for which pattas were granted. While so, when respondent Nos.1 to 3 tried to interfere with their possession, the present Writ Petitions are filed.

A counter affidavit was filed on behalf of respondent Nos.1 to 3 stating that Sy.No.4, admeasuring Ac.1302.07 gts., situated in Thalla Dharmaram Village, is included in the reserve forest of Arisikota block; it was notified in the gazette dated 23.08.1951; from the date of notification, the area is under the control of the Forest Department; and, since it was

notified reserve forest land, the question of issuing pattas does not arise. The Joint Collector-cum-Ex.Officio, Forest Settlement Officer, Karimnagar, vide his letter dated 19.10.1994, addressed the Revenue Divisional Officer, Jagtial to cancel the loani pattas given, if any, and also directed the Mandal Revenue Officer, Sarangapur to take action for eviction. The Mandal Revenue Officer, Sarangapur, vide his letter dated 13.09.1989, stated that Sy.No.4 is included in the revenue records as forest. It is further stated that the government constructed a project known as Aragonda Project on Varivagu in about Ac.900 of land covered in Sy.No.4; if the pattas were not canceled, it would be in violation of the rules made under Andhra Pradesh Forest Act and Forest Conservation Act, 1980; when forestry work was undertaken, the villagers obstructed plantation works; and, hence, dispossession of the petitioners from the land, which was notified as forest during 1951, does not arise as the area is under the control of the Forest Department.

When this Court noticed that there was an order of status quo on 04.03.2011, and no counter affidavit is filed by the fifth respondent, he was directed to file counter affidavit by order dated 19.10.2016. Pursuant to which, respondent No.5 filed counter affidavit.

It is stated that the Revenue Department has not initiated any action against the petitioners for their dispossession; as per Settlement Record (Sethwar) available,

the said land, which is an extent of Ac.1302.07 gts. situated in Sy.4, is a government land; as per khasra pahanies, it was recorded as a Mahasura and assignment pattas were issued to 505 beneficiaries by the then Mandal Revenue Officer on 18.08.1994 to an extent of Ac.695.20 gts. based on their 5 to 6 years of enjoyment after obtaining approval from the Mandal Assignment Review Committee dated 17.08.1994; the Assistant Director, Survey and Land Records, in his letter dated 08.08.1994, stated that the entire land in Sy.No.4 is a poramboke land but not a forest land and no supplementary sethwars were issued; the Divisional Forest Officer, Karimnagar, vide his letter dated 10.09.1994, stated that the entire extent of Ac.1302.07 gts was included in reserve forest and the same was reconciled in the jamabandi during the year 1989; the Mandal Revenue Officer, Sarangapur as well as Assistant Director, Survey and Land Records, Karimnagar also confirmed in their letters dated 13.09.1989 and 16.09.1994 respectively that the said land is a forest land; however, the correspondence with the District Collectorate shows that during 1967-68, the tree growth was felled and certain uneconomic baron lands were decided to be handed over to the Revenue Department but the map of Sy.Nos.4 and 9 was not traceable; the correspondence also revealed that, even if the land under consideration is reserve forest, compensatory land may be identified for the Forest Department as many assignment pattas were already issued

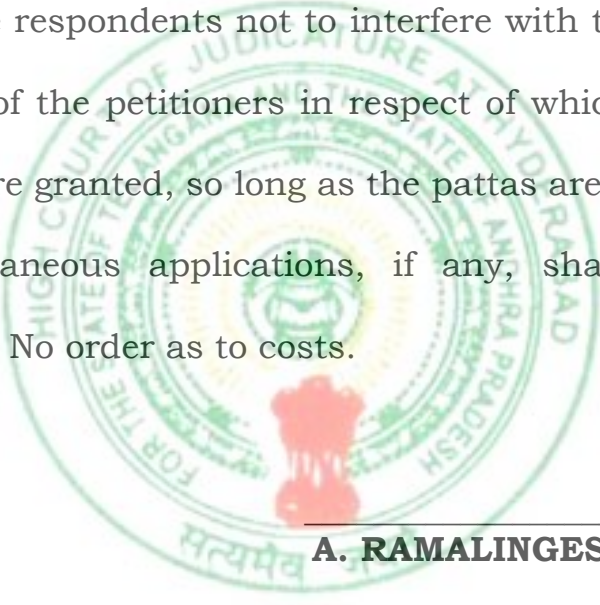
in Sy.No.4; the second respondent held joint inspection on 25.07.2005 and acknowledged occupation/cultivation in 250 hecares since many years; though many joint inspections were planned between Revenue and Forest Department, no comprehensive conclusion was arrived as the joint inspections were postponed/cancelled for non-appearance of one of the Departments; ultimately, joint field survey by Revenue and Forest Department is necessary to determine which part of Sy.No.4 falls under Reserve Forest since the land extends to Ac.1302.07 gts.; as per Khasara pahani 1997-98, 637 assignees were in enjoyment of Ac.837 but the subsequent pahani entries show that around 79-125 assignees were in enjoyment; the present position showed that the lands of the writ petitioners were under cultivation before five years but now it is fallow; and, however, majority of the extent of Sy.No.4 is under cultivation.

It is clear from the above facts that notification was issued, including the land in Sy.No.4 in the reserve forest in Arshikota Reserve Forest Block, on 17.08.1951. However, due to felling of tree growth during 1967-68, it was decided to transfer certain uneconomic baron lands to the Revenue Department and as compensation, some land was sought to be transferred to the Forest Department. But no action was taken. However, in the meanwhile, pattas were granted to nearly 630 assignees in 1994. The petitioners are also assignees and their assignments were not cancelled. It

appears that the land was kept fallow, and whether it was uneconomical, is not yet determined by the joint inspection of Revenue and Forest Department. The petitioners have been in possession of the land by virtue of assignment pattas granted in 1994. The counter affidavit of the Sub-Collector, Jagtial categorically states that joint inspection by Revenue and Forest Department is necessary in order to decide the dispute.

In the circumstances, these Writ Petitions are allowed directing the respondents not to interfere with the possession of the land of the petitioners in respect of which assignment of pattas were granted, so long as the pattas are in force.

Miscellaneous applications, if any, shall also stand disposed of. No order as to costs.



A. RAMALINGESWARA RAO,J

Date:23.11.2016
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