

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION NO.23933 OF 2011

ORDER:

This writ petition is filed by the petitioners declaring the inaction of the respondents in interfering with their rights over house plot Nos.107 and 108 in an extent of 0.03 cents each in S.No.977/1 of Madakalavari Palli, Gopavaram Mandal, Y.S.R.District as illegal.

It is the case of the petitioners that basing on their applications, the third respondent-Tahsildar, Gopavaram Mandal, allotted the said house plots to the petitioners through D.Form Pattas in H.No.186/1412 and 285/1414, dt.26.04.2003 and 11.03.2005 respectively and possession was handedover to them and since then, it is in peaceful possession and enjoyment of the petitioners. While so, to the utter surprise of the petitioners, the third respondent along with respondent Nos.4 and 5 entered into the subject house plots and asked them to handover the same to respondent Nos.4 and 5 stating that the same were allotted to respondent Nos.4 and 5 in the month of March-2011. Thereafter, the petitioners made a representation before the third respondent, dt.08.08.2011 requesting him to furnish the information as to whether the assignments granted in their favour are in subsistence or not. On 15.08.2011 they secured the allotments made by the third respondent in favour of respondent Nos.4 and 5 and noticed that the third respondent made bogus allotments with a view to grab the subject house plots with the support of political parties. Hence, the present writ petition is filed.

Counter affidavit is filed by the third respondent admitting that D-Form pattas which were granted in favour of the petitioners on 26.04.2003 and 11.03.2005 are genuine and an endorsement to that effect was also issued to the petitioners on 08.08.2011. It is also stated that the allegation of the petitioners that he is interfering with the rights of the petitioners and making attempts to put respondent Nos.4 and 5 into the subject house plots by dispossessing the writ petitioners is absolutely false, baseless. It is also stated that on 29.03.2011 the then Tahsildar, Gopavaram Mandal has erroneously issued possession certificate Nos.224 and 225 for fasli 1420 in favour of respondent Nos.4 and 5 in respect of the land covered by plot Nos.107 and 108 in S.No.977/1 of Madakavalavaripalli Village on 29.03.2011. The house site pattas issued earlier in favour of the writ petitioners with plot Nos.107 and 108 in S.No.977/1 of Madakalapalli Village of Goparavaram Mandal were not cancelled so far and that the petitioners are in possession of the said property by laying foundation and it is also further stated that action will be initiated to cancel the subsequent possession certificates issued to respondent Nos.4 and 5 by following the procedure.

Heard both the learned counsel.

This Court in W.P.M.P.No.29346 of 2011, dt.30.08.2011 granted interim orders staying dispossession for a period of four weeks, basing on the statement made by the learned Government

Pleader for Assignment to the effect that the petitioners who were assigned Ac. 0.03 cents of land each as house sites have already laid a foundation and that they are in possession of the house plots as on today and by mistake, possession certificates were granted in favour of respondent Nos.4 and 5, which may be required to be cancelled.

As seen from the counter affidavit filed by the third respondent, it is not known why the then Tahsildar, Gopavaram Mandal has erroneously issued possession certificates in favour of respondent Nos.4 and 5 in respect of the said house plots. Third respondent admitted in his counter that D-Form pattas granted in favour of the petitioners are not cancelled so far and they are in possession of the said property by laying foundation.

Though notices are issued to respondent Nos.4 and 5, no counter affidavit is filed, but they were represented by a learned counsel.

In view of above facts and circumstances of the case, the writ petition is allowed as prayed for, directing the respondent authorities to take action for cancellation of possession certificates granted in favour of respondent Nos.4 and 5 by issuing notices to them and also the petitioners and pass appropriate orders within period of two months from the date of receipt of a copy of this order. Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

Dt.09.03.2016
TJS.

A.RAJASHEKER REDDY, J

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Dt.09.03.2016