

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.21691 OF 2016

ORDER :

It is the case of the petitioners that they belong to fishermen community doing the occupation of fishing and that they elders raised huts near seashore for the purpose of fishing at light house in Sy.No.301 of Suryaraopet village, Thammavaram Post, Kakinada Rural, East Godavari District. They have also obtained power connection and house numbers for their huts from the Grampanchayat of Suryaraopet. It is stated that they have acquired title over land by way of adverse possession and that they are landless poor persons. When the Sarpanch of the Village wanted to construct community hall, petitioners made representations on 20.06.2016 to the 2nd respondent stating that vast extent of land is available other than the land which is in occupation of the petitioners. On 22.06.2016, the 3rd and 4th respondents came to the premises of the petitioners and tried to evict them for the purpose of construction of community hall and shelter. Aggrieved by the same, present writ petition is filed.

2. Counter affidavit is filed by the respondent No.4 admitting about the construction of houses by the petitioners. It is also stated that the land to an extent of Acs.2.66 cents in R.S.No.301/1 at Suryaraopet Grampanchayat, H/o Thammavaram Village of Kakinada Rural Mandal is Government land. It was assigned to one Sri Vuda Subbarao and subsequently the land has been resumed for violation of

conditions by the then Mandal Revenue Officer, Kakinada dully following due process of law and issued final orders of resumption, vide Ref.B/8/85, dated 15.01.1986. Since then the land is under the control of the Government and is vacant. The Sarpanch and village elders of Suryaraopet Gram Panchayat made representation for construction of Cyclone Shelter-cum-marriage function hall. The 4th respondent visited the site and found that the same is suitable for construction of Cyclone Shelter and marriage hall, which is very essential to the people residing in the locality at the time of cyclones. It is stated that the writ petitioners have encroached the Government land, without any rights.

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

4. It is a fact that the petitioners have not filed any document to show that they have right, title and interest over the subject land, except stating that they are in possession of the subject land for the last 50 years. More over, what is the extent of land they are in possession is also not mentioned in the writ affidavit. In the counter affidavit, though it is alleged that the petitioners have encroached the subject land, no reply is filed by the petitioners rebutting the same. In view of the same, it is open for the respondents to evict the petitioners by following due process of law.

In view of the above facts and circumstances, there shall be a direction to the respondents not to evict the petitioners from the subject property, without following due process of law.

With the above direction, this writ petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in this writ petition, shall stands closed.

22.09.2016
kvs

A.RAJASHEKER REDDY, J



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Date: 22.09.2016

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