

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.35275 of 2012

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ORDER:

This petition is filed for a writ of *Mandamus* declaring the action of the respondents in attempting to evict the petitioners from the land in R.S.No.88/1, admeasuring Ac.5.00 guntas on the ground that it is a Government land, as illegal and arbitrary and for a consequential direction to the respondents not to evict the petitioners without following due process of law and also to consider the application of the petitioners for grant of assignment of the said land.

The case of the petitioners is that they are cultivating the land in Survey No.88/1, admeasuring Ac.2.20 guntas each, situated at Vadlagudem Village, Dammapeta Mandal, Khammam District from 1978 onwards by removing the bushes in the land. They have purchased the said land from their vendors by name Naradala Kistamma and others through unregistered sale deeds and that from the date of purchase they are in possession and enjoyment of the said lands by paying taxes to the Government. It is also stated that the Government recognized their occupation in respect of the above land and recorded the same in Adangals; and that in the Adangals the land was classified as assessed waste and their occupation over the said land is recognized for the last 27 years. While so, the petitioners submitted applications to the authorities in the year 2000-2001 for grant of assignment of the land occupied by them as they are eligible landless poor. But the said application was not considered by the authorities till date. It is also submitted that the authorities without issuing any notice, seeking any explanation and without following due process, are trying to evict the petitioners. Hence, the petitioners filed the present writ petition.

The respondents filed counter stating that as per revenue records i.e., Pahanies, the land in Survey No.88/1 is classified as Poramboke (Government Land) and petitioners' names are not entered in pahanies either as enjoyers or pattedars. Hence, the claim of the petitioners is false. It is also stated that petitioners are non-tribals and encroached the land in Survey No.88/1, as such, the petitioners are not eligible for assignment in Scheduled Area as it violates the Land Transfer Regulation Act 1/59 r/w. 1/70 as well as land Encroachment Act, 1905. Hence, petitioners' occupation is objectionable and their claim for assignment is not acceptable which attracts Section 3(1) of Land Transfer Regulation Act 1/59 r/w 7/10. It is also stated that Form 7 under Land Encroachment Act, 1905 was served on 08.09.2012 to the lease holders of the petitioners and since they refused to take the notice and as petitioners are not the residents of Wadlagudem village and their addresses were not known, notice is affixed in village chavidi, Grampanchayat Office, Tahasildar Office, calling for objections, if any; and that as no objections were received in the Tahsildar office, Form 6 under Land Encroachment Act, 1905, was issued on 24.09.2012 and since the leaseholder refused to take notice under Form 6, the notice is affixed in Village, Chavidi, Gram Panchayat Office and Tahsildar office. It is further stated that possession is taken under cover of panchanama on 24.09.2012 and that due procedure under Land Encroachment Act, 1905 is followed and land taken into Government Custody for Oil Palm Seed Garden of A.P.Horticulture Department for uplifting of poor tribals in abutting villages of Wadlagudem Village and finally sought for dismissal of the writ petition.

Heard both sides.

The grievance of the petitioners is that they have been in

possession of the subject lands having purchased the same from the vendors through unregistered sale deeds and they have also applied for assignment of pattas, and as such, their possession should not be disturbed without following due process of law. In the counter it is specifically stated that as petitioners are non-tribals, they are not eligible for grant of pattas since the land is situated in the Agency area; and that petitioners were evicted and possession was taken on 24.09.2012 only after issuing Form-7 notice under Land Encroachment Act, 1905 and after passing final orders. In view of the same, it cannot be said that petitioners were dispossessed without following due process of law. In view of the above facts and circumstances, I do not see any merits in the writ petition.

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

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

A.RAJASHEKER REDDY, J

22.02.2016
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