

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

Writ Petition No.40297 OF 2012

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ORDER:

This petition is filed for a writ of *Mandamus* declaring the action of the 4th respondent in trying to evict the petitioners from their respective extent of lands of Ac.0.35 cents each, situated in R.S.No.452, Chinagollapalem Village, Kruthivenu Mandal, Krishna District, without considering the representation dated 17.12.2012, submitted by the petitioners to the 2nd respondent in reply to the notice dated 05.01.2012 issued by the 4th respondent, as illegal and arbitrary and for a consequential direction to the 2nd respondent to consider the representation dated 17.12.2012, submitted by the petitioners for granting assignment pattas to each of the petitioners.

The case of the petitioners is that they are the permanent residents of Chinagollapalem Village, Kruthivenu Mandal, Krishna District and that they are all depending upon the agriculture as their livelihood and they have no other source of income. While so, pursuant to the common decision taken by the elders of their village, they have occupied an extent of Ac.0.35 cents each in Sy.No.452, Chinagollapalem Village, Kruthivenu Mandal, Krishna District, which is an unoccupied and unassessed Government waste land out of the total extent of about Ac.500.00 and cultivating the same since 1990-1991 and that they have been in

continuous actual physical possession and enjoyment of the same till today. While so, the 4th respondent issued notices dated 05.12.2012, asking the petitioners to show cause as to why they should not be evicted from their respective extents and confiscate the standing crop namely the fish seedlings, which is in the growing stage. Pursuant to the same, the petitioners have submitted a common representation dated 17.12.2012 to the District Collector, Krishna district with a request to grant assignment of D-Form Pattas or grant lease so as to continue their livelihood and that the same was received by the respondents on 17.12.2012. While the matter stood thus, on 26.12.2012 the 4th respondent along with subordinate staff came to the subject land along with subordinate staff and started measuring the same and also directed the petitioners to vacate their respective extent of lands without giving any explanation to the petitioners and without considering the representation of the petitioners dated 17.12.2012. Aggrieved by the same, present writ petition is filed.

Counter is filed by the 4th respondent stating that the land in R.S.No.452 of Chinagollapalem Village of Kruthivennu Mandal of Krishna District, falls within the Costal Regulation Zone i.e. 500 Meters from the costal High Tide Line and it was found that the said land was encroached by 1064 persons of Chinagollapalem Village, unauthorisedly, for digging Fish/Prawn Ponds in violation of the provision of Costal

Aqua Culture Authority Act, 2005. As such, they are liable for eviction for unauthorized and illegal encroachment of Government land especially in the prohibited area lands. It is stated that to carry out the evictions from the subject land, notices under Section 7 of the Land Encroachment Act, 1905 were issued to vacate the land which is under unauthorized encroachment and that since the writ petitioners refused to take notices, the notices were published in the land as per Rules. It is also stated that the Director General (VIG & ENFT) & E.O. Prl. Secretary to Government GAD, A.P., Hyderabad in their Alert No.120(2130/VE-D3/2006), dated 14.12.2006, recommended to initiate the process of eviction of encroachers from the Government land in R.S.No.452 of Chinagollapalem Village of Kruthivennu Mandal and as such, the petitioners are liable to be evicted. It is also stated that the request of the writ petitioners for grant of D-form pattas for grant of lease to the land occupied by them in the subject land was rejected by the then Revenue Divisional Officer, Bandar in L.Dis.B.2958/2012, dated 26.12.2012 as the land R.S.No.452 is classified as M.C.Block and the said land fallen within the Costal Regulation Zone i.e., 500 Meters from the Costal High Tide Line. As such the action taken by the 4th respondent against the petitioners is in accordance with law.

Heard learned counsel for the petitioners who submits that unless orders are passed on the

representation submitted by the petitioners in pursuance of the show cause notice dated 05.12.2012, petitioners cannot be evicted from the subject lands.

On the other hand learned Assistant Government Pleader for Revenue submits that notices under Section 7 of the A.P.Land Encroachment Act, 1905 were issued and after filing explanations by the petitioners, their request for grant of D-Form Pattas or for grant of lease was rejected vide orders dated 26.12.2012 by the RDO, Bandar and that admittedly petitioners are encroachers of the Government land, as such, no relief is granted.

In the counter it is stated that the RDO passed final orders on 26.12.2012 rejecting the representation of the petitioners seeking grant of pattas/lease and that petitioners have also admitted that they have been issued notices and filed explanation. Since the RDO already passed final orders on the representation of the petitioners, it cannot be said that the petitioners cannot be evicted. More so, the writ petition is pending from the year 2012 and no interim order was granted in the same.

In view of the above, the writ petition is disposed of granting liberty to the petitioners to challenge the proceedings in L.Dis.B.2958/2012, dated 26.12.2012 issued by the RDO, Bandar, before the competent Authority who shall consider the same and pass appropriate orders in accordance with law. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, shall stand closed.

A.RAJASHEKER
REDDY, J

15.03.2016
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