

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.29889 of 2011

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ORDER:

This petition is filed for a writ of *Mandamus* declaring the action of the 2nd respondent in issuing proceedings bearing ROC No.888/2003(B), dated 17.11.2004, canceling the house site pattas allotted to the petitioners in Sy.Nos.113/3 and 111/1 at Velagapadu Village of T.Narsapuram Mandal, West Godavari District, by declaring the petitioners as in-eligible, as illegal and arbitrary.

2. The case of the petitioners is that they are the beneficiaries of house site pattas granted by the 3rd respondents in the year 2004; that these pattas were granted to them as they belong to weaker sections, under SWLS scheme, after due enquiry as to the eligibility of the beneficiaries and that the said lands were acquired by the Land Acquisition Officer, Eluru, pursuant to passing of the award bearing No.16/2003, dated 18.12.2003. Ever since the allotment, the petitioners are in possession and enjoyment of 2½ cents of land each, granted to them. While so, some of the people residing in the same village started claiming that the very same house sites are going to be allotted to them under the proposed 'Rachabanda' programme. As such, the petitioners contacted the 2nd respondent to find out the veracity of such claims and the 2nd respondent's office has given the petitioners the orders of cancellation issued by the 2nd respondent on 17.11.2011. The grievance of the petitioners is that they were neither served with any notices nor any other proceedings relating to the cancellation of the pattas earlier. As such, challenging the said proceedings, the petitioners filed the present writ petition.

3. The respondents filed counter affidavit admitting that the subject lands were acquired in pursuance of passing of the award bearing No.16/2003, dated 18.12.2003, to an extent of Ac.7.86 cents, situated at Velagapadu, T.Narsapuram Mandal for providing house sites to 183 Nos. of S.Cs, B.Cs., and other weaker section beneficiaries. It is also admitted that the 3rd respondent has taken over the possession of the acquired land and granted pattas to 41 beneficiaries of the main hamlet i.e. Velagapadu Village in ROC.No.270/2003 (Dy.MRO), dated 29.01.2004. It is stated that at the time of distribution of house-site pattas, certain allegations were received by the Revenue Divisional Officer, Eluru that certain ineligible persons were granted house site pattas; and that immediately, the RDO, Eluru responded and put the then MRO, to enquire about the genuineness of the beneficiaries. After enquiry by the MRO, it was found that there were certain beneficiaries who are not eligible for obtaining house sites as they are already having houses in the colony. Hence, questioning their eligibility show-cause notices were issued to the in-eligible persons of Velagapadu Village. Thereafter a detailed report was also submitted to the RDO, Eluru in Roc.No.270/2003 (Dy.MRO), dated 17.10.2004. Thereby, the RDO, Eluru cancelled the house site pattas granted by the then MRO. A prohibitory order was also issued by the 3rd respondent vide Roc.No.270/2004 (A), dated 18.10.2004 and a wide publicity was made in Village and its hamlets. It is also submitted that the aforesaid lands were kept vacant since long time and under the possession of the Government and that the State Government has takenup 'Indiramma' Programme for providing house sites to the weaker section beneficiaries in the entire mandal in three phases. As

such, the RDO, Eluru in his letter Roc.No.1061/2009, dated 21.10.2011 has approved the list of beneficiaries and instructed to grant house sites to the weaker sections under 3rd phase 'Indiramma' housing scheme in the aforesaid subject land by duly following the norms issued by the Government. Thereby, the 3rd respondent had immediately prepared Lay out plans for the subject lands and distributed on 25.10.2011, duly giving possession to the listed beneficiaries in their respective house sites. It is also stated that the petitioners are not in possession and enjoyment of the subject lands; and that the impugned action of cancellation has been taken only after issuing notices to the petitioners and after considering their explanations to the notices which were very vague.

4. Heard.

5. In the instant case, the allegation of the petitioners is that the impugned proceedings have been passed cancelling the pattas granted to them, without issuing any notices to them. But, in the counter it is specifically stated that only after issuing notices to the petitioners, the impugned proceedings were passed and that the pattas allotted to the petitioners were cancelled only on the ground that the petitioners are in-eligible persons as they are already having houses and house-sites. But, nowhere in the writ affidavit, it is stated that they are eligible as they are not having any houses or house sites and no reply affidavit is filed by the petitioners to the counter filed by the respondents. It is also the case of the respondents that possession was also given to the eligible persons after cancelling the pattas granted to the petitioners. When once notices were issued and the same is also indicated in the impugned order that show cause notices were

issued to the ineligible persons on 25.10.2004, and pattas were cancelled in respect of persons who are already having assigned lands, and reasons were also shown in the impugned order that on the ground of ineligibility, pattas were cancelled, it cannot be said that the impugned order is illegal. More so, the impugned order is passed only after issuing notices to the petitioners. Further the impugned order is of the year 2004 and challenging the same, the present writ petition is filed in the year 2011.

6. In view of the aforesaid facts and circumstances, I do not see any merit 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

15.02.2016
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