

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

W.P. No. 23896 OF 2012

-
ORDER :
-

This writ petition is filed seeking writ of mandamus declaring the action of the respondents in trying to evict the petitioner from his land in Sy.No.140/5 of Duvvada Village, Gajuwaka Mandal, Visakhapatnam District as illegal and arbitrary and consequently to direct the respondents and their subordinates not to interfere with the petitioner's possession and enjoyment of the land of an extent of Ac.1.00 cents in Sy.No.140/5 of Duvvada Village, Gajuwaka Mandal, Visakhapatnam.

2. It is the case of the petitioner that he is an agriculturist by avocation and eking out livelihood by cultivating the land inherited by him from his ancestors over an extent of Ac.1.00 cents in Sy.No.140/5 of Duvvada Village, Gajuwaka Mandal, Visakhapatnam and that he is in possession of the said land after demise of his father. The petitioner and his ancestors have been in possession of the said land over a period of 80 years without any interference from any quarter and their names have been entered in revenue records such as Adangals and 10(1) Accounts and they have been paying tax to the Government regularly and continuing in possession without any interference from any quarter. As the Cashew nut and mango garden raised by the forefathers of petitioner became old, the petitioner removed the same and planted new plants of mango, cashew nut, lemon sapota and other fruit bearing trees. The petitioner had also constructed a farm house in the said land. While so, on 03.06.2012, the revenue authorities including the 3rd respondent came to the subject land along with a JCP all of a sudden, without notice and tried to demolish the wall erected for fencing to the garden. The petitioner filed complaint before the 1st

respondent against the unauthorized action of 4th respondent and his subordinates. The 1st respondent had endorsed the complaint and issued instructions to his subordinates, but no action is initiated till date. Aggrieved by the same, present writ petition is filed.

3. The 3rd respondent filed counter denying the averments in the affidavit filed in support of the writ petition stating that the land in Sy.No.140/5 measuring a total extent of Acs.2.32 cents of Duvvada Village is classified as 'Gayalu'. The said land was assigned in favour of Sri Jayanthi Venkata Rama Joga Rao vide D.R.No.31/1976 and the said assignment was cancelled due to violation of conditions vide proceedings Rc.No.116/2007/SA, dated 30.04.2007 as he sold the land to various persons including the present petitioner. As such, the same is in violation under Sections 3(2) and 3(3) of the A.P. Assigned Lands (POT) Act, 1977. That a writ petition i.e., W.P.No.1384 of 2015 was filed by one Sri Kucharlapati Appalaraju requesting not to dispossess him from the land in Sy.No.109 part and Sy.No.118 admeasuring Ac.0.47 cents of Vedullanarava village of Sabbavaram Mandal and in Sy.No.140/5 measuring to an extent of Ac.0.43 cts in Duvvada village and same was disposed of by this Court by order dated 30.01.2015 directing the respondents therein not to interfere with the possession of the petitioner without following due process of law.

4. Heard learned counsel for the petitioner and learned Government Pleader for Revenue appearing for the respondents.

5. In this case, it is to be seen that in the counter affidavit of the 3rd respondent it is categorically stated that the name of the original assignee in respect of land to an extent of Acs.2.32 cts in Sy.No.140/5 of Duvvada Village is Sri Jayanthi Venkata Rama Joga Rao, from whom the petitioner has purchased the subject property, as such, there is violation of Sections 3(2) and 3(3) of the A.P.

Assigned Lands (POT) Act, 1977 (for short 'the Act of 1977'). Writ Petition filed by one Kucharlapati Appalaraju was allowed holding that the petitioner should not be evicted without following the due process of law. The petitioner claims that he is in possession of the said land and he has also filed a copy of Adangal to show his possession over the said land. Even the said land is an assigned land, he is entitled to protection under Section 3(5) of the Act of 1977 provided he fulfills conditions laid down in the said section. In the counter, it is not reflected whether the case of the petitioner therein was considered or not. Counter is also silent about whether the petitioner has been issued any notice or not. Since the writ petition i.e., W.P.No.1384 of 2015 is filed by one Kucharlapati Appalaraju, wherein the land involved in Sy.No.140/5, was allowed remanding the matter back to the authorities for deciding the issue, I deem it proper that the petitioner also cannot be evicted without following due process of law. However, it is open for the authorities to issue appropriate notice to the petitioner. After giving an opportunity to the petitioner and after following the due procedure, take action in accordance with law. Till then, the petitioner shall not be evicted from the subject property.

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 stand closed.

A.RAJASHEKER REDDY, J

08.03.2016.

kvs

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

-
W.P. No.23896 OF 2012

-
-
-
-
-
-
-
-
-
Date: 08-03-2016

kvs