

HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION Nos. 8251 OF 2010 AND 22346 OF 2011

DATED 8TH FEBRUARY, 2016

BETWEEN

Tellam Ramudu

...Petitioner in WP.No.8251 of 2010

Tellam Venkateswara Rao and ors

.....Petitioners in WP.No.22346 of
2011

And

The Mandal Revenue Officer,
Jeelugumilli Mandal, WG District and ors

...Respondents in WP.No.8251 of
2010

State of Andhra Pradesh,
Rep. by its Principal Secretary to
Home Department, Secretariat, Hyderabad and ors

....Respondents in WP.No.22346 of
2011

HONOURABLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION Nos. 8251 OF 2010 AND 22346 OF 2011

COMMON ORDER:

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Since these two Writ Petitions are inter related and as
also the lands in these two cases are one and the same, they

are disposed of by this common order.

In Writ Petition No.8251 of 2010, the challenge is to the action of the Mandal Revenue Officer, Jeelugumilli Mandal, and Station House Officer, Jeelugumilli Mandal Police Station, West Godavari District in not implementing the judgment and decree dated 16.04.2007 passed in O.S.No.2 of 2002 and the order dated 8.10.2007 passed in E.P.No.1 of 2007 in OS.No.2 of 2002 by the Special Assistant Agent to Government (Revenue Divisional Officer),Jangareddigudem.

The petitioner in Writ Petition.No.8251 of 2010 approached the Special Assistant Agent to the Government (Revenue Divisional Officer),Jangareddigudem by way of instituting O.S.No.2 of 2002 against the defendants therein/respondents 3 to 11 herein seeking relief of permanent injunction restraining the defendants and their men, supporters, followers and their nominees not to interfere with his peaceful possession and enjoyment of the plaint schedule property. The Special Assistant Agent to the Government (Revenue Divisional Officer), Jangareddigudem decreed the said suit on 16.04.2007 and the decree passed in the said suit reads as under:

“ That the suit be and same is allowed granting permanent injunction restraining the defendants, their men, supporters, followers, and their nominees not to interfere with the peaceful possession and enjoyment of the plaint schedule property in any way at any time and in any manner.

In the circumstances of the case, there is no costs. Copy of plaint schedule attached herewith.”

Subsequently the petitioners in Writ Petition No.8251 of 2010 prayed for enforcement of the said decree by way of filing EP.No.1 of 2007 before the Special Assistant Agent to the Government (Revenue Divisional Officer), Jangareddigudem, who by order dated 08.10.2007 granted police aid in favour of the petitioner in WP.No.8151 of 2010. Thereafter the District Collector, West Godavari District at Eluru by way of FAX Message bearing No.MSG.F2/6790/2008 dated 21.07.2008 directed the Revenue Divisional Officer, Jangareddigudem and the Mandal Revenue Officer, Jeelugumilli Mandal to implement the judgment and decree dated 16.4.2007 passed in O.S.No.2 of 2002 and report compliance within a week. Subsequently the Revenue Divisional Officer, Jangareddigudem by proceedings Roc. No.611/2008 G dated 30.7.2008 requested the Mandal Revenue Officer, Jeelugumilli Mandal and the Station House Officer, Jeelugumilli Mandal Police Station to take immediate action against the defendants in O.S.No.2 of 2002 and to extend protection to the schedule property. According to the petitioner, since the Mandal Revenue Officer, Jeelugumilli Mandal did not take any action, he filed representation dated 6.4.2010. In the above background, complaining inaction on the part of respondents 1 and 2, Writ Petition No.8251 of 2010 came to be filed. On 15.06.2010 this Court while ordering Rule Nisi, granted interim order in WPMP.No.10629 of 2010, directing respondents 1 and 2 therein to consider the representation dated 6.4.2010 and take necessary action in accordance with law forthwith. It is further stated that complaining willful and deliberate disobedience of the said order, the petitioner in Writ Petition No.8251 of 2010 filed Contempt Case No.1499 of 2010 and after

filing the same, respondents 1 and 2 in Writ Petition No. 8251 of 2010 started initiating action. Taking into account of the same, the Contempt Case was closed by this Court while keeping it open to the petitioner to seek appropriate directions in the main writ petition for redressal of further grievance if any.

At that point of time, when respondents 1 and 2 in Writ Petition No. 8251 of 2010 started initiating action, Writ Petition No. 22346 of 2011 has been filed before this Court questioning the action of respondents 3 to 6 therein, namely, the Superintendent of Police, Deputy Superintendent of Police, Inspector of Police, Jangareddigudem Circle, Station House Officer, Jeelugumilli Police Station, Tahsildar, Jeelugumilli Mandal, West Godavari District in calling them to the Police Station of fifth respondent and insisting them to vacate the lands covered by Survey Nos. 56/3, 57/1, 56/1E, 55/5, 56/3D, 55/6 and 63/1 of Datlavarigudem village and Survey Nos. 65/1B, 65/1D, 49/5F, 56/1F, 65/1G, 55/3, 57/2, 56/1 and 65/1 of Madakamvarigudem village, Jeelugumilli Mandal, West Godavari District. In Writ Petition No. 22346 of 2011, Sri Tellam Ramudu, who is the petitioner in Writ Petition No. 8251 of 2010 is arrayed as 7th respondent. The 7th respondent filed counter affidavit, denying the averments made in the affidavit filed in support of Writ Petition No. 22346 of 2011 and justifying the action initiated by the respondents therein.

Heard Sri D.V.Madhusudan Rao, learned Counsel, appearing for the petitioner in Writ Petition No. 8251 of 2010, Sri Nimmagadda Satyanarayana, learned Counsel appearing for the petitioners in Writ Petition No. 22346 of 2011, learned

Government Pleaders for Revenue and Home, appearing for the official respondents in both Writ Petitions, and Sri PRK Amarender Kumar, learned Counsel, appearing for Respondents 10 and 11 in Writ Petition No.8251 of 2010.

The material available on record discloses that the judgment and decree dated 16.04.2007 passed in O.S.No.2 of 2002 by the Special Assistant Agent to the Government (Revenue Divisional Officer), Jangareddigudem, has attained finality and admittedly there is injunction in favour of the Petitioner in Writ Petition No.8251 of 2010. The material on record further discloses that pursuant to the said judgment and decree, the District Collector, West Godavari District at Eluru sent a FAX Message vide MSG No.F2/6790/2008, dated 21.07.2008, directing the Revenue Divisional Officer, Jangareddigudem and the Mandal Revenue Officer, Jeelugumilli Mandal for implementation of the said judgment and decree. In the affidavit filed in support of Writ Petition No.22346 of 2011 the petitioners averred that in the suits in O.S.Nos.10 to 16 of 2011 filed by them, the Special Assistant Agent to Government (Revenue Divisional Officer), Jangareddigudem granted status quo in their favour in I.A.Nos.9 to 14 of 2011 on 20.04.2011. Repelling the said averment, it is submitted by the learned Counsel for the petitioner in Writ Petition No.8251 of 2010 that the said status quo orders were vacated by the Special Assistant Agent to Government (Revenue Divisional Officer), Jangareddigudem by common order dated 01.10.2011 and a copy of the same is placed on record. The relevant portion of the order dated 01.10.2011 reads as follows:

“ Upon perusing the petitioners' affidavits and the

counters filed therein it is found that the petition schedule properties in all above numbered I.As. are part and parcel of the suit schedule property covered by OS.No.2/2002 filed by these respondents before this Court. As there is a permanent injunction orders are there against the respondents herein by virtue of the above said permanent injunction orders in O.S.No.2/2002 the present petitions attracts the rule of resjudicate. On perusal of the contentions filed by the respondents in all above IAs it is found that these respondents are question the title of the petitioners in all IAs. As contended by these respondents the petitioners have to seek the relief of declaration for their respective petitioners schedule properties instead of filing mere injunction petitions. As seen from the decree and judgment passed in OS.2/2002 and the police aid granted by this Court in E.P.1/2007 filed in O.S.2/2002 and also the subsequent proceedings passed by the Tahsildar, Jeelugumilli and several letter addressed by the Tahsildar, Jeelugumilli to the Station House Officer, Jeelugumilli, it is found that the respondents are in possession and enjoyment of the petition schedule properties in all above said petitions. To prove their title, possession the petitioner did not file any acceptable documents before the court. Hence the petitioners are not entitled any relief of temporary injunction orders. In the light of the above finding it is hereby ordered to vacate the status quo orders which are already filed by this Court on 18.4.2011 and consequently dismissed the temporary injunction petitions filed in the above numbered I.As.”

Admittedly the suits instituted by the petitioners in Writ Petition No.22346 of 2011 are pending consideration before the Special Assistant Agent to Government (Revenue Divisional Officer),Jangareddigudem. There is no dispute that the status quo orders obtained by the petitioners in Writ Petition No.22346 of 2011 are already vacated by the Special Assistant Agent to Government (Revenue Divisional Officer),Jangareddigudem. Therefore the petitioners in Writ Petition No.22346 of 2011 are not entitled for any indulgence of this Court under Article 226 of

the Constitution of India. Whereas, in view of the fact that the judgment and decree dated 16.4.2007 in O.S.No.2 of 2002 passed by the Special Assistant Agent to Government (Revenue Divisional Officer),Jangareddigudem attained finality, this Court is of the considered opinion that the petitioner in Writ Petition No.8251 of 2010 is entitled to the relief sought for in the said Writ Petition.

Accordingly Writ Petition No.8251 of 2010 is allowed, directing respondents 1 and 2 in the said Writ Petition to take appropriate action for implementation of the judgment and decree dated 16.4.2007 passed in O.S.No.2 of 2002 by the Special Assistant Agent to Government (Revenue Divisional Officer),Jangareddigudem.

Writ Petition No.22346 of 2011 is dismissed. However, it is made clear that it is left open for the petitioners in Writ Petition No.22346 of 2011 to pursue the suits instituted by them before the Special Assistant Agent to Government (Revenue Divisional Officer),Jangareddigudem in accordance with law.

Miscellaneous petitions pending consideration if any in the Writ Petitions shall stand closed in consequence. No order as to costs.

JUSTICE A.V.SESHA SAI

DATED 8TH February, 2016.
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