

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.34836 of 2012

ORDER:

Petitioners pray for the following relief:

“..Writ of Mandamus declaring the inaction of the respondents 1 to 3, especially respondent No. 3, in not verifying whether or not pattas have been granted to respondents 4 to 17 in Survey No. 42-B2 and consequently not taking any remedial action for the alleged reason that Survey No. 42 finds a mention in the orders of this Hon'ble Court dated 31-10-2012 in W.P. No. 33914 / 2012 as illegal and consequently direct the 3rd respondent to ensure that there is no encroachment into the petitioners patta land admeasuring Ac. 1.43 Cents in Survey No. 42-B2 and pass such other further order ...”

2. The District Collector, Kadapa/first respondent filed counter affidavit referring to the history of Sy.No.42, pendency of issue before the Vigilance Department and the lack of record in the office of concerned Tahsildar. The first respondent alleges that the subject matter of the writ petition, according to revenue records, is classified as water body. The first respondent further assures this Court that a holistic view on the entire episode of assignments in the instant survey number will be examined and appropriate decision taken. The stand of the first respondent reads thus:

“11. For the reasons stated in the preceding paras, it is clear that the then Tahsildar (who is no more now) issued pattas to several persons stating that they are eligible persons. I submit that the records pertaining to allotment of pattas are not available in this office, since the record was handed over to vigilance department and the same was not returned so far. But as the report of the MRO to the Joint Collector on 07-03-1998, it is clear that pattas were given to the eligible

persons in Sy.No.59. But as per the proceedings dt: 15-04-1999 of the MRO, Kadapa the lands in Sy.No.42/B2A to an extent of Ac.1.43 cents were resumed. I submit that at present some encroacher are then occupying Ac.0.60 cents of the lands in the above Sy.No. and the remaining is vacant. I submit that the above lands are water bodies and allotters the land of water bodies as house sites are contra to the law, we are contemplating steps to evict those persons from those lands by following due process of law."

3. Mr. A. Srinath, appearing for petitioner, submits that the above passage is not categorical enough to express timely action by first respondent but goes on record by stating that the first respondent contemplates to take action. According to him, the stand is incomplete and the Court considers issuing necessary directions.

4. While placing the statement of first respondent on record, this Court stipulates time limit for suitable action and the same reads as follows:

The first respondent takes up the proposed action of examining the legality of pattas in subject survey number expeditiously and appropriate orders are passed after affording opportunity to parties interested within six (6) months from the date of receipt of a copy of this order.

5. It is made clear that this Court has not examined the merits of the claim asserted by the petitioner or the right claimed by private respondents basing upon the alleged assignments issued in their favour. The writ petition is disposed of as indicated above since the first respondent has stated that survey number is water body, he intends to take action in accordance with law.

As a sequel, the miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

September 15, 2016
DSK

S. V. BHATT, J

