

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.21710 of 2012

ORDER:

Heard counsel for the petitioners and Government Pleader for Revenue appearing for the respondents.

2. Petitioners claim to be in possession of Ac.2.37 cents in R.S.No.9/4p of Chinna Gangavaram Village, Venkatapuram Mandal, Khammam District.

3. Petitioners contend that the first petitioner's husband by name Mutyalu acquired it during his lifetime, that it co-relates to Old Survey No.36/part (Banjar) and the name of the first petitioner's husband was also mentioned in the Adangal as possessor of the said land from 1371 Fasli to 1383 Fasli. They contend that the first petitioner's husband paid the land revenue to the Revenue Department from 1371 Fasli to 1397 Fasli.

4. Proceedings were taken up *suo motu* under Section 9 of the A.P. (Scheduled Areas) Ryotwari Settlement Regulations, 1970 (for brevity, "Regulations") for issuance of Ryotwari Patta in respect of an extent of 3.17 Hectares in R.S.No.9/4P of the above Village. This consists of an extent of 0.80 hectares, 2.12 hectares and 0.25 hectares in R.S.No.9/4p.

5. The Settlement Officer/Sub-Collector, Bhadrachalam (third respondent) in Case No.2244 dated 13.07.1999 allowed the claim of the first petitioner's husband Mutyalu for an extent of Ac.0.80 cents equivalent to 2-00 hectares in R.S.No.9/4p, but disallowed it as regards 2.12 Hectares and 0.25 Hectares in the same survey number. In the said order, it was recorded that as per the said

Regulations, in the case of non-tribals, possession or occupation of the land over a continuous period of not later than eight years before the commencement of the Regulations has to be established for the grant of a Ryotwari patta;

the first petitioner's husband Mutyalu and his predecessors were in possession of land to an extent of Ac.2-00 cents during the Fasli 1375, Ac.4-00 in 1378 Fasli and Ac.5-00 in 1373, 1374, 1376, 1377, 1379 and 1380 Faslis; that since they were in continuous possession for Ac.2-00 cents (0.80 hectares only) during the crucial period, they are entitled to a Ryotwari patta only for this extent and not for the balance extent i.e., 2.12 hectares and 0.25 hectares in R.S.No.9/4p.

6. This order was questioned by the petitioners, under Section 9(3) of the said Regulations before the second respondent insofar as the third respondent had declined to grant Ryotwari patta for the extent of 2.12 hectares and 0.25 hectares in R.S.No.9/4p.

7. By order dated 20.06.2006 in A.P.No.39/99(C2), the second respondent dismissed the appeal.

8. Dissatisfied with the said decision, the petitioners filed further appeal under Section 9(3) of the said Regulations before the first respondent insofar as the rejection by the third respondent and its confirmation by the second respondent as regards their claims for Ryotwari patta for the extent of 2.12 hectares and 0.25 hectares in R.S.No.9/4p.

9. The said appeal was numbered as CCLA's proceedings L1/250/2006 by the first respondent.

10. By order dated 16.06.2012, the said appeal was dismissed by the first respondent and while dismissing the said appeal filed by the petitioners with regard to their claim for patta in respect of 2.12 and 0.25 hectares in R.S.No.9/4p, the first respondent also set aside the grant of Ryotwari patta by the third respondent even with regard to 0.80 hectares (Ac.2-00) in Case No.2244 dated 13.07.1999.

11. Challenging the same, this writ petition is filed.

12. Counsel for the petitioners contends that when the third respondent had granted patta to the petitioners under Section 9(1) of the Regulations in respect of 0.80 hectares (Ac.2-00) in R.S.No.9/4p, and that order has not been questioned by the State under Section 9(3) of the Regulations either before the second respondent or the first respondent, the first respondent could not have set aside the grant of Ryotwari patta to the extent of 0-80 hectares in R.S.No.9/4p and to that extent the order passed by the first respondent is unsustainable and without jurisdiction. Counsel for the petitioners further contended that the rejection of the request of the petitioners for grant of Ryotwari Patta under Section 9(1) of the Regulations as regards 2.12 hectares and 0.25 hectares in R.S.No.9/4p by respondent Nos.3, 2, and 1 in their respective orders is also unsustainable and the matter be remitted back to the third respondent for a fresh adjudication as regards grant of ryotwari patta for these extents.

13. The Government Pleader for Revenue appearing for respondent Nos.1 to 4 contended that the petitioners ought not to have been granted patta for any land in R.S.No.9/4p having regard to the reasons assigned in the impugned order dated 16.06.2012

by the first respondent. He further contended that both the third respondent and the second respondent had given valid reasons for rejection of the claim of the petitioners for Ryotwari Patta as regards 2.12 hectares and 0.25 hectares in R.S.No.9/4p and these concurrent findings of fact cannot be set aside at the instance of the petitioners.

14. I have noted the submissions of both the sides.

15. Section 9 of the Regulations reads as follows:

“Section 9: Grant of patta: -

(1) The Settlement Officer shall inquire into the nature and history of all lands in respect of which ryotwari patta is claimed under section 7 and decide in respect of which lands the claim should be allowed and the persons who are entitled to ryotwari patta;

Provided that the claim for a ryotwari patta is not void under any other law applicable to the Scheduled Areas.

(2) The Settlement Officer may *suo motu* and shall on an application made by a person, after serving a notice in the prescribed manner on all the persons interested in the grant of ryotwari patta and after giving them an opportunity of making representation and after examining all the relevant records in this behalf, pass an order either granting the ryotwari patta to the ryot in respect of the lands concerned or refusing to grant such patta.

(3) An appeal shall lie to the Director against the decision of the Settlement Officer and to the Board of Revenue against the decision of the Director within sixty days from the date of communication of the order or decision appealed against and the decision of the Board of Revenue shall be final and shall not be questioned in any court of law.”

16. A reading of the above provision indicates that the Primary Authority is the third respondent to consider claims for Ryotwari Patta under Section 7; that his order can be questioned in appeal before the second respondent and in further appeal before the first respondent.

17. In the present case, the third respondent had granted

Ryotwari Patta to the petitioners in respect of 0.80 hectares in R.S.No.9/4p vide his order dated 13.07.1999 in Case No.2244, but denied Ryotwari patta in respect of 2.12 hectares and 0.25 hectares in R.S.No.9/4p to the petitioners. To the extent the third respondent had granted Ryotwari Patta to the petitioners with regard to 0.80 hectares in R.S.No.9/4p, the State has not assailed the same in appeal before the second respondent. Therefore, to the extent the third respondent had granted relief to the petitioners in respect of 0-80 hectares in R.S.No.9/4p, the said order had attained finality.

18. The appeal by the petitioners before the second respondent was confined to the question whether the third respondent was right in denying Ryotwari patta to them in respect of 2.12 hectares and 0.25 hectares in R.S.No.9/4p. He rejected it by an order dated 20.06.2006 in A.P.No.39/99(C2). Petitioners had questioned this order of the second respondent before the first respondent. Therefore, the scope of the appeal before the first respondent was confined to whether the petitioners were entitled to Ryotwari patta in respect of 2.12 hectares and 0.25 hectares in R.S.No.9/4p and the question as to whether the third respondent had rightly granted patta to them in respect of 0.80 hectares in R.S.No.9/4p was not subject matter of the appeal before the first respondent. Therefore, the first respondent had no jurisdiction to set aside the order dated 13.07.1999 in Case No.2244 passed by the third respondent in its entirety. He could not have set aside the grant of Ryotwari Patta to the third respondent for the extent of 0.80 hectares in R.S.No.9/4p, when there is no appeal by the State for that extent of land. Therefore, I am of the opinion that the order passed by the first

respondent, insofar as he set aside the grant of Ryotwari Patta to the petitioners for the extent of 0.80 hectares in R.S.No.9/4, alone deserves to be set aside and it is accordingly set aside.

19. However, insofar as the claim of the petitioners for grant of Ryotwari patta for the other extent of 2.12 hectares and 0.25 hectares in R.S.No.9/4p is concerned, after perusing the orders passed by respondent Nos.3, 2, and 1 respectively, I am of the view that the concurrent view of respondent Nos.1 to 3 that the petitioners are not entitled to Ryotwari Patta to this extent does not suffer from any error of jurisdiction warranting interference by this Court under Article 226 of the Constitution of India. They have given cogent reasons why the petitioners are not entitled to Ryotwari patta for these extents of land.

20. Therefore, the Writ Petition is partly allowed and the order passed by the first respondent to the extent the first respondent set aside the grant of Ryotwari patta to the petitioners for the extent of 0.80 hectares in R.S.No.9/4p of Chinna Gangavaram Village by the third respondent in Case No.2244 dated 13.07.1999 only is set aside.

In other respects, the order passed by the first respondent is confirmed.

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

JUSTICE M.S. RAMACHANDRA RAO

June 16, 2016
LMV

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

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