

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 38141 of 2016

ORDER:

1) Heard learned counsel for the petitioner, Government Pleader for Assignment and Sri Gopal Reddy, learned counsel appearing for Respondent No.5. With their consent, the writ petition is being taken up for disposal at the admission stage itself.

2) The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of respondent Nos.3 and 4 in not granting patta to the petitioner pertaining to land admeasuring Ac.2.55 cents in Sy.No.309/ 3, Potlur Village, Gudlur Mandal, Prakasham District by considering the representation dated 23.09.2016; and consequently direct respondent Nos.3 and 4 to grant patta in favour of the petitioner for the above mentioned land.

3) The averments in the affidavit filed in support of the writ petition would show that the petitioner, who is a landless poor person, started cultivating the government land admeasuring Ac.2.55 cents as it was vacant. After recognizing his possession, the revenue authorities are said to have issued pattadar pass book in his favour. Later on, the petitioner came to know that the said land was assigned to respondent No.5. The averments in the affidavit further show that respondent No.5 is not entitled for any assignment as he is a government employee and not resident of

Potlur village. It is specifically stated in the affidavit that since last 26 years the petitioner is in possession of the property and is raising cultivation over the said land. As the respondents are trying to evict the petitioner, he made a representation to respondent Nos.3 and 4 not to dispossess him from the land. Challenging the action of respondent Nos.3 and 4 in not granting patta in favour of the petitioner is subject matter of challenge in the writ petition.

4) Learned counsel appearing for respondent No.5 and Government Pleader for Assignment opposed the writ petition contending that the petitioner has no right for grant of patta as such the question of considering his representation would not arise.

5) A perusal of the averments would show that the petitioner himself admits that it is a government land and he is cultivating it since last 25 years. It is further admitted by him that the said land was assigned in favour of respondent No.5. That being the position the question is whether it is permissible for the authorities to grant patta in favour of the petitioner.

6) As stated earlier, the averments in the affidavit are to the effect that respondent Nos.3 and 4 have issued pattadar pass book in favour of the petitioner. But the proceedings before the Revenue Divisional Officer, Kandukur which came to be initiated by the petitioner himself show that the Tahsildar, Gudlur vide proceedings in RCA/ 246/ 2012 dated 30.01.2015 reported that the

land in Sy.No.309-3 admeasuring Ac.2.55 cents is classified as AW land as per RSR of Potluru village. The order further indicate issuance of pattadar pass book and title deed bearing No.162890 in Khata No.316 of Potluru Village in favour of respondent No.5, who is resident of Tettu Village. Challenging the orders of the Tahsildar, the petitioner herein filed an appeal before the Revenue Divisional Officer, Kandukuru. After considering the litigation existing between the parties, the Revenue Divisional Officer, Kandukuru, opined that there is no need to interfere with the orders of the Tahsildar dated 08.02.2013 in RCA/ 246/ 2012 granting pattadar pass book and title deed in favour of respondent No.5.

7) A perusal of the order of the Revenue Divisional Officer further indicate that the petitioner herein filed O.S.No.212 of 2002 on the file of the Principal Junior Civil Judge, Kandukur, seeking permanent injunction restraining respondent No.5 and his men from cultivating the said land. I.A.No.1095 of 2002 which was filed for ad-interim temporary injunction came to be dismissed on 11.03.2003 and the earlier ad-interim injunction which was granted on 01.09.2002 was vacated. Aggrieved by the said orders, the petitioner herein filed an appeal before the Senior Civil Judge, Kandkukur and the same was also dismissed. The contents of the order of the Revenue Divisional Officer indicate that even the suit was dismissed for default. While things stood thus, the petitioner herein filed an application before the Revenue Divisional Officer to resume the subject land as it is

under his possession and enjoyment. After completion of the enquiry, the Revenue Divisional Officer, issued orders in D.Dis.No.334 of 2004, dated 03.03.2012 opining that D-Form patta was granted in favour of respondent No.5 on 14.09.1996 and changes were also incorporated in the old 10 (1) and IB record. It has been further observed that the pattadar pass book and title deed produced by the petitioner with Khata No.246 are not genuine. Pursuant to an order dated 29.10.2012 passed in W.P.No.30996 of 2012, the Tahsildar, Gudlur issued proceedings dated 08.02.2013 in favour of respondent No.5. In view of the above, it cannot be said that the petitioner can claim right over the said land. If he is aggrieved by the order of the Revenue Divisional Officer he has a remedy to file revision before the Joint Collector. In view of the orders passed by this Court in W.P.No.30996 of 2012 and also by the Revenue Divisional Officer, the request of the petitioner for granting patta cannot be considered more so basing on the representation dated 23.09.2016. Hence, I see no merit in the writ petition and the same is liable to be dismissed.

8) Accordingly, the writ petition is dismissed. There shall be no order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

29.11.2016
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