

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

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**W.P.M.P.No.10417 of 2012 and W.P.M.P.No.8249 of
2014**

**in
W.P.No.11044 of 2011
and
WRIT PETITION No.11044 of 2011**

COMMON ORDER:

Petitioners claim to be granted house site pattas in R.S.No.796 and 792 of Venkatapuram Gram Panchayat, Vinayaknagar, Eluru Mandal, West Godavari District between 2001 and 2010. They also claim that they were given certificate of occupancy and enjoyment by 2nd respondent in respect of the plots granted to them and that they had spent huge amount and constructed huts in the said plots.

2. Petitioners contend that 3rd respondent is encouraging three individuals mentioned in para 4 of the affidavit filed in support of the Writ Petition to occupy petitioners' house sites by misusing his powers and he had also threatened the petitioners. They contend that they gave a representation on 11-04-2011 to the 1st respondent against the 3rd respondent, but the 1st respondent did not consider the same.

3. They therefore seek a direction to the 1st respondent to consider their representation dt.11-04-2011

and to direct the

3rd respondent not to interfere with the petitioners' house sites in the above survey numbers.

4. Respondent Nos.1 and 2 filed a counter-affidavit stating that extent of Ac.3.16 gunats and Ac.1.41 guntas in R.S.No.792 of Venkatapuram village of Eluru Mandal is zeroity land; that they were converted into house sites and allotted as plots to the public by the land owner; that there remained some bits of lands which are low lying and unfit for forming plots; the 1st petitioner, along with parents of other petitioners, who were landless artisans and agricultural labour, made these low lying bits leveled up long back and occupied them for construction of houses. They contend that 1st petitioner was granted a house site patta on 19-02-2008 and she constructed a house and is living therein at present. It is also stated that respondent Nos.2 to 4 were also given enjoyment certificates by 2nd respondent basing on enjoyment in 2001, that pattas were issued in 2008, and permission was also granted for construction of houses under Indiramma Housing Scheme being taken up by the Housing Board in West Godavari District. It is further stated that some of the villagers were threatening the Writ petitioners to vacate the site occupied by them and instructions were given to the subordinates of 2nd respondent to ensure that their possession is not disturbed. It is also stated that before

an order could be passed on the representation dt.11-04-2011 submitted by petitioners, the Writ Petition was filed and an interim direction was granted on 20-04-2011 and the interim orders were being implemented.

5. The 3rd respondent filed a counter-affidavit stating that the land in R.S.No.796 and 792 of Venkatapuram Gram Panchayat was formed as layout after approval by the Director of Town and Country Planning, Hyderabad; the open space left over for the purpose of public utility had to be registered in the name of the Gram Panchayat; but in spite of the repeated requests, the land owners one Musunuri Krishna Murthy and Musunuri Satyanarayana have sold even the open space to various individuals without obtaining any permission from the Gram Panchayat. He stated that the Gram Panchayat had constructed a water tank in a small extent of land for the benefit of villagers of Venkatapuram, that the remaining open space of layout was occupied by petitioners after obtaining Occupation Certificates from the Revenue authorities and they constructed tin sheds in the said land. It is also stated that the possession certificates were issued to petitioners by the Revenue authorities without any resolution from the Gram Panchayat and without furnishing any information in that regard to the Gram Panchayat. It is also stated that the Gram Panchayat was not furnished any information by the Revenue authorities even though such information was

sought by them. It is contended that the petitioners have no right or title in the land and are continuing in possession basing on the possession certificates granted by the Revenue authorities. He denied that he had instigated the villagers to interfere with the possession of the petitioners.

6. W.P.M.P.No.10417 of 2012 was filed by one Iddum Chiranjeevi and W.P.M.P.No.8249 of 2014 was filed by one Dasari Vandana Jeevan Syam to implead them as respondents in the Writ Petition. Their common plea is that they are residents of Vinayak Nagar in Venkatapuram Gram Panchayat, Eluru Rural Mandal, West Godavari District; that the land in Sy.Nos.792 and 796 along with the land in Sy.Nos.791, 794, 802 and 806 are common sites reserved for common use for the benefit of public at large such as for the construction of community halls, marriage halls, temples, parks, schools etc; that these common areas to an extent of about 3500 sq. yds are very costly and have market value of Rs.6000/- per square yard; that the Writ Petitioners illegally occupied the common areas upto 2000 sq. yards worth Rs.80 lakhs and are continuing in possession thereof. They contend that they convened a meeting with the local people in the vicinity and brought to their notice about the illegal occupation of common sites by the unsocial elements such as petitioners; that one

Jujuverapu Jaya Raju (for short 'J.Jaya Raju'), who was supporting the Writ petitioners threatened to implicate Sri Iddum Chiranjeevi in cases under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act; that he got filed a false case against Sri Iddum Chiranjeevi and grabbed his land on 13-12-2012 by threatening him. They contended that the 1st petitioner is none other than the mother-in-law of J.Jaya Raju, who is behind the land grabbers in the layout. Both the implead petitioners contended that the Revenue officials had colluded with the Writ petitioners and the Writ petitioners, on the basis of forged documents, had obtained interim orders from the Court. It is contended that the 2nd respondent had a duty to protect the land belonging to the Gram Panchayat and had violated the instructions issued in G.O.Ms.No.188, Panchayat Raj & Rural Development (Pts.IV) Department, dt.21-07-2011, which was issued pursuant to the judgment of the Supreme Court of India in Civil Appeal No.1132 of 2011 @ S.L.P. (C) No.3109 of 2011. They contend that no notice had been issued to respondent Nos.4 to 7 by respondent Nos.1 to 3 deliberately and this indicates their collusion.

7. Having regard to the pleadings of Sri Iddum Chiranjeevi and Sri Dasari Vandana Jeevan Syam and material papers filed by them, which pleadings are supported by 3rd respondent, it is clear that a layout was

sanctioned in R.S.Nos.796 and 792 of Venkatapuram Gram Panchayat and the open spaces left over in the layout for the purpose of public utility were encroached by the Writ petitioners depriving the residents of Vinayak Nagar colony, which is developed in the said layout, of use of the open spaces. Therefore, I am of the opinion that Sri Iddum Chiranjeevi and Sri Dasari Vandana Jeevan Syam are necessary parties to the Writ Petition and they have correctly exposed the truth. So they are entitled to be impleaded as parties to the Writ Petition. Therefore, W.P.M.P.No.10417 of 2012 and W.P.M.P.No.8249 of 2014 are both allowed.

8. The Andhra Pradesh Gram Panchayats (Protection of Property) Rules, 2011 were framed vide G.O.Ms.No.188 Panchayat Raj and Rural Development (Pts.IV) Department dt.21-07-2011 issued by the State Government invoking the powers under Section 268(1) of the Andhra Pradesh Panchayat Raj Act, 1994. Under the said G.O, how the properties of the Gram Panchayats are required to be protected is laid down. It classified Gram Panchayat properties into 3 categories. Category A are lands which are owned and acquired by the Gram Panchayat including all general roads and drains, cattle pounds, cattle sheds, common market areas, 10% open spaces in layouts, existing parks and lands purchased by the Gram Panchayats. Thus 10% of the open spaces in the layouts which are required to be gifted to the Gram

Panchayat are required to be protected by the Gram Panchayat and the procedure to be followed for protection of such properties of the Gram Panchayat is set out in the said G.O.

9. Sri Dasari Vandana Jeevan Syam had also filed a report

dt.09-07-2013 in letter No.412/2012-A1(Panchayat) addressed by the Divisional Panchayat Officer, Eluru to the District Panchayat Officer, West Godavari District, Eluru pointing out that Ac.1.27 cents of common areas in R.S.No.791, 792 and 796 of Venkatapuram Gram Panchayat was encroached upon. He also filed proceedings dt.10-04-2013 issued to him under the Right to Information Act, 2005 by the Panchayat Secretary of the Venkatapuram Gram Panchayat mentioning the extent of encroachments in the common areas in R.S.No.791, 792 and 796 by petitioners.

10. No material is filed by 2nd respondent to show that the land in R.S.No.791, 792 and 796 of Venkatapuram Gram Panchayat, Vinayak Nagar, Eluru Rural Mandal is Government land entitling him or the other Revenue officials to issue either house site pattas or enjoyment certificates for the same. Although the Writ petitioners claimed that 1st petitioner was granted a house site patta and respondent Nos.2 to 4 were granted enjoyment certificates by the Revenue officials, the

alleged house site patta granted to 1st respondent is only a certificate showing her possession. It is not known how 2nd respondent could have issued a house site patta or enjoyment certificate in respect of private lands. It is thus clear that the Revenue officials colluded with the Writ petitioners and issued the above certificates to perpetrate the occupation of common sites in the layout in Vinayak Nagar by the Writ petitioners. The petitioners have absolutely no right, title or interest in the said lands under their occupation and they have misled this Court about their title to the said properties and obtained interim order from this Court on 20-04-2011 to the effect that their possession shall not be interfered so long as pattas granted in their names were subsisting.

11. Therefore the Writ Petition is dismissed with costs of Rs.2,000/- (Rupees Two Thousand only) each to be paid by petitioners to respondent no.s 3-5. The 1st respondent is directed to initiate suitable action including disciplinary action against the officials of the Office of the 2nd respondent including the then 2nd respondent for supporting and colluding with the Writ petitioners and depriving the Vinayak Nagar Colony residents of Venkatapuram Gram Panchayat, Eluru Rural Mandal, West Godavari District of valuable common area sites in the sanctioned layout. He shall also initiate action for eviction of Writ petitioner Nos.1 to 4 forthwith from the

lands in their occupation in R.S.Nso.791, 792 and 796 of Venkatapuram Gram Panchayat, Vinayak Nagar, Eluru Rural Mandal, West Godavari District and restore the land in the occupation of Writ petitioners to the said Gram Panchayat.

12. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 08-07-2016

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