

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

W.V.MP.No.2550 of 2012

in/and

WRIT PETITION No.1575 of 2011

COMMON ORDER :

In this Writ Petition petitioner assails the orders passed on 15.07.2009 in favour of respondents 4 to 10 assigning them Ac.1-50 cents each in survey No.1422/2 of Gattupalli Revenue Village, Jaladanki Mandal, Nellore District.

2. Petitioner contends that he purchased an extent of Ac.2-33 cents in survey No.1422/2 under registered sale deed dt.22.08.1995 from one Jaldanki Mohan Rao. Petitioner contends that the grand father of Jaldanki Mohan Rao purchased an extent of 5½ acres in the said survey number from one Khadar Valli Saheb under registered sale deed dt.14.08.1933; that after he purchased the land, Pattadar Passbook and Title Deeds were also issued to the petitioner by the 1st respondent in the year 1997; that he also purchased another extent of Ac.2-30 cents in survey No.1422/2 under registered sale deed dt.19.05.1992 from Ch.Kesava Reddy, who in turn had purchased the said extent from T.Ademma and her sons under a registered sale deed dt.09.10.1985.

3. Petitioner contends that the respondents 1 to 3 have unauthorizedly assigned his private land to respondents 4 to 10 without any authority of law and when he applied under the Right to Information Act, 2005 to 1st respondent in October, 2010 for issuance of copies of assignment pattas, on 27.11.2010 the 1st respondent communicated to him the copies of assignment pattas granted on 15.07.2009 to respondents 4 to 10. Petitioner contends that the respondents 1 to 3 could not have assigned his private lands to respondents 4 to 10, since it is not Government land and if the Government is of the view that he has no title to the land, they have to approach the competent Civil Court for the petitioner's eviction and cannot proceed under the provisions of the A.P. Land Encroachment Act, 1905.

4. Petitioner has also filed copies of 10(1) Adangals of 25.03.1934 and 27.05.1963 and Adangals for Faslies 1392 to 1418 in support of his plea that the land in question is private land and is under his cultivation.

5. On 31.01.2011 this Court directed *status quo* to be maintained with regard to possession of the subject land.

6. Thereafter, W.V.MP.No.2550 of 2012 has been filed by respondents 1 to 3 to vacate the order dt.31.01.2011.

7. In the counter affidavit annexed to the said vacate stay petition, it is asserted that as per diglot an extent of Ac.12-84 cents in survey No.1422 of Gattupalli Village of Jaldanki Mandal was notified as Government land and is an assessed waste dry land. It is further asserted that notice vide Rc.B.79/2008, dt.08.5.2003 was issued to all persons whose names were unauthorizedly and illegally manipulated in old 10(1) and 1B registers including the petitioner calling for their explanation and that the petitioner refused to receive the said notice. According to the counter affidavit, notice was then served by way of substituted service on 10.05.2008 by exhibiting the notice in the respective fields, putting in the notice board of the Gram Panchayat office and by way of informing villagers about its contents by beat of tom-tom on 10.05.2008. It is stated that after the lapse of stipulated time mentioned in the notice, on 01.06.2008, the Tahsildar, Jaladanki issued orders vide Rc.B.79/2008 deleting all the names of authorized persons including the petitioner in relation to survey No.1422 and the petitioner was evicted from the land by way of an office order Rc.B.96/2009 dt.02.06.2009. It is stated that thereafter assignments were made to respondents 4 to 10.

8. Along with the counter affidavit copy of Diglot is not filed by respondent Nos.1 to 3 in proof of their assertion that the subject land was notified as Government land and is an assessed waste dry land. Further no material is placed to prove that the notice dt.08.05.2008 was refused by the petitioner or that it was served by substituted service by exhibiting notices in the fields of the petitioner on 10.05.2008. Also copy of the order if any passed under Section 6 of the Land Encroachment Act 1905 is also not filed. The respondents 1 to 3 have also not filed copy of the alleged office order Rc.B.96/2009 dt.02.06.2009.

9. The counsel for unofficial respondents 4 to 10 supported the stand taken by the learned Government Pleader for Assignment.

10. The petitioner has *prima facie* established his title to the subject property by filing the sale deeds under which he purchased the land as well as the link documents thereto apart from proving his possession by filing copies of Adagals of 1933, 1963 and Faslis 1392 to 1418. Therefore, it is clear that petitioner had longstanding possession of the subject property.

11. The Supreme Court of India in ***Government of Andhra Pradesh v. Thummala Krishna Rao & Anr.***^[1]

12. The material placed on record by the petitioner, *prima facie*, proves his title as well as his longstandin

13. In the above facts and circumstances of the case, I am of the considered opinion that the initiation of j

14. Assuming for the sake of argument that respondents 1 to 3 were entitled to take recourse to Land Enc

15. Thus there has been gross abuse of power by respondents 1 to 3 in evicting the petitioner from the su

16. Therefore, this Writ Petition is allowed; the orders dt.15.07.2009 issued in favour of respondents 4 to `

17. Consequently, WV.MP.No.2550 of 2012 is dismissed. Miscellaneous petitions pending, if any, shall also stand dismissed.

M.S.RAMACHANDRA RAO, J

12th July, 2016
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^[1] AIR 1982 SC 1081

^[2] MANU/AP/0405/2007

^[3] 1999(1) LACC 596)