

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No. 34542 of 2016

ORDER:

Heard learned counsel for the petitioners and learned Government Pleader for Revenue.

2. With the consent of both the parties, the Writ Petition is disposed of at the admission stage.

3. The present Writ Petition came to be filed seeking issuance of writ of mandamus declaring the impugned orders passed by respondent no.3 in Rc.No.A1/12614/2015, dated 14.12.2015 which was confirmed by respondent No.2 in Appeal No.H4/2213/2016, dated 03.09.2016 in connection with the undivided ancestral property of the petitioners' land admeasuring Acs.5.38 guntas in Survey Nos.361/A/1 and 361/A/5 of Nelapatla Village, Kusumanchi Mandal, Khammam District, as illegal and violative of Articles 14,19, 21 and 300-A of Constitution of India.

4. The case of the petitioners is that the land admeasuring Acs.5.38 guntas in Survey Nos.361/A/1 and 361/A/5 of Nelapatla Village, Kusumanchi Mandal, Khammam District, belongs to one Appaiah, who is the grandfather of the petitioners. After the death of said Appaiah, the property devolved upon the petitioners, respondent No.4 and his daughter by name Srilatha. It is stated that the revenue records reveal that the name of said Appaiah, who is the pattadar, was recorded in the pattadar column whereas the name of respondent No.4 was recorded in possession column

upto 2006. Respondent No.4 is said to have got his name mutated in the revenue records suppressing the fact that he has two sons and one daughter. It is further stated that all the petitioners were doing joint cultivation in the said land. It is averred that the petitioners are entitled for half share of the property and respondent No.4, knowing fully well that he has no absolute right over the property and by taking protection under the provisions of Senior Citizen Act, 2007, sought protection from the interference of the petitioners. It is stated that without giving any appropriate notice and without giving time to engage an advocate, respondent No.3 passed the impugned order dated 14.12.2015. The same was challenged in the appeal which was also dismissed confirming the orders of the primary authority i.e., RDO. Aggrieved by the said orders, the present writ petition is filed.

5. As seen from the order under challenge, the petitioners herein, who are the sons of respondent No.4 deposed that they have been obstructing their father in cultivating the land and they further deposed that they would not interfere with possession and enjoyment over the land. Basing on the said statement, respondent No.3 herein directed the petitioners herein not to interfere with the peaceful possession and enjoyment of the land belonging to respondent No.4 herein.

6. Though learned counsel for the petitioners would contend that without giving notice, the impugned order came to be passed, but the orders passed by the primary authority clearly discloses

the statements made by the petitioners herein which was confirmed in appeal. Apart from that, the material placed on record discloses that the petitioners herein filed O.S.No.520 of 2015 on the file of Principal Junior Civil Judge, Khammam, for division of the property between them and respondent No.4. Since the Civil Court is ceased of the matter and having regard to the statements made by the petitioners, the order under challenge warrants no interference.

7. Accordingly, the writ petition is dismissed.

8. Miscellaneous petitions, pending if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE C.PRAVEEN KUMAR

20.10.2016,
vnb

