

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.26227 of 2016

ORDER:

This writ petition is filed stating that the petitioner and his brothers are legal heirs of his father Ch.Mallaiah who was conferred ownership rights under Section 38-E of Andhra Pradesh (Telangana) Tenancy and Agricultural Lands Act, 1980 (for short "Tenancy Act") to an extent of Ac.09-36 guntas situated in Sy.No.512 and 514 respectively at Turkayamajal Village, Hayathnagar Mandal, Ranga Reddy District. The petitioner and his brothers approached the 4th respondent seeking succession and restoration of possession and the same was considered and orders were passed vide proceedings No.F/1424/1995, dated 14-07-2004 granting succession and ordered restoration of possession. After orders were executed, the affected party approached the appellate authority i.e. Joint Collector and the appeal was disposed of remanding the matter back to the 4th respondent for fresh hearing and passing orders. In compliance to the said proceedings, the respondent No.4 issued proceedings in B/1895/2008, dated 19-01-2010 passed orders reiterating the earlier orders. The said orders were challenged in appeal No.F2/3313/2011, dated 15-10-2014 and the appellate authority dismissed the appeal filed

against the orders passed by the 4th respondent vide order dated 15-10-2014. As such, said orders have become final as they were not challenged. Though the proceedings were issued by the 4th respondent in accordance with law, the persons and others in illegal occupation of the land raised technical objection as to how the 4th respondent could restore possession without partitioning the subject land between the persons having title i.e. registered sale deeds and without metes and bounds. The 5th respondent when approached raised the same objection. On that the petitioner approached the 4th respondent and he addressed a letter to the 5th respondent dated 30-09-2015 and a reading of the letter shows that symbolic possession was delivered to the petitioner. Therefore, the petitioner again approached the 4th respondent on 19-07-2016 and submitted representation seeking rectification of technical errors and deliver constructive possession as contemplated under law. As no orders are passed, the present writ petition is filed.

Learned counsel for the petitioner submits that since the petitioner filed representation against influential persons, the 4th respondent has not disposed of the representation filed by him. He submits that once grant of ownership certificate under Section 38-E of the Tenancy Act became final and the Joint Collector also dismissed

the appeal filed under Section 90 of A.P. (Telangana Area) Tenancy and Agricultural Lands Act, holding that possession was delivered to the petitioner along with his brothers and confirming the order passed by the 4th respondent observing that symbolic possession does not arise.

On the other hand, learned Assistant Government Pleader submits that as per Joint Collector order dated 15-10-2014 by panchanama dated 28-04-2010, possession of subject land was handed over to the petitioner, it is for the petitioner to approach Civil Court for protecting his rights.

It is averred that the orders were passed in favour of the petitioner under Section 38 of Tenancy Act along with his brothers on 14-07-2004, wherein restoring the possession of subject land in favour of the petitioner and the same was observed in the order by Joint Collector on 15-10-2014. Once certificate under Section 38-E is stated to be handed over to the petitioner and restoration of possession was ordered and panchanama was conducted, if any of the third parties are interfering with petitioner's possession, it is open for the petitioner to approach Civil Court and obtain appropriate orders.

In view of the same, I do not see any reason to entertain the writ petition and accordingly, the writ

petition is dismissed. It is open for the petitioner to avail alternative remedy available under law. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

22-08-2016
Nvl



