

HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No. 10301 OF 2008

ORDER:

In this Writ Petition filed under Article 226 of the Constitution of India, the grievance of the petitioners precisely is that the respondent authorities are attempting to dispossess them from the land admeasuring Ac.2.33 cents situated in Sy.No.191/1 of L.Agraharam Village, Tadepalligudem Mandal, West Godavari District, without following due process of law.

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

According to the petitioners, their ancestors acquired the subject land by way of registered documents executed in the year 1958. It is averred in the Writ Petition that ever since the date of purchase by their ancestors, the land has been in their possession and enjoyment. It is alleged that due to the changed political scenario, the 5th respondent came to the subject land stating that the Government released funds vide proceedings, dated 25.03.2008, for reclamation of the said land, which is called Sanyasi Kunta. Learned counsel for the petitioners submits that the said action of the respondent authorities is highly arbitrary, illegal, violative of principles of natural justice and also violative of Articles 14 and 300A of the Constitution of India.

The Tahsildar, Tadepalligudem Mandal filed counter affidavit, wherein it is stated that the land admeasuring Ac.2.33 cents situated in R.S.No.191/1 is classified in revenue accounts as "Sanyasi Kunta" (Government Poramboke) and as the petitioners have encroached upon the said land, which is tank poramboke, they have no right in it.

Though it is stated in the affidavit filed in support of the Writ Petition that the petitioners are the absolute owners and possessors of the subject land, the said aspects, touching the title and rights of the parties, cannot be gone into in the present Writ Petition. According to the counter filed by the respondents, the petitioners are in occupation of the said land.

This Court, while ordering Rule Nisi on 10.06.2008, granted interim stay of dispossession as prayed for and the said order is in existence since then. It is also categorically stated in the writ affidavit that the respondents are seeking to dispossess the petitioners without issuing any notice and without affording them an opportunity of being heard.

Having regard to the submissions of the learned counsel for the petitioners and taking into consideration the material available on record, this Court deems it appropriate to dispose of the Writ Petition keeping it open for the respondents to proceed in accordance with law, after giving notice and an opportunity of being heard to the petitioners. Till the said exercise attains finality, interim order, dated 10.06.2008, passed by this Court in W.P.M.P.No.13513 of 2008 shall continue.

Writ petition stands disposed of accordingly. No order as to costs.

Miscellaneous petitions, if any, shall also stand disposed of.

A.V. SESA SAI, J

Date: 22.11.2016
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