

## **HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO**

### **WRIT PETITION No.14627 of 2007**

#### **ORDER:**

1. The petitioner, who belongs to Backward Class community, filed the present writ petition challenging the proceedings issued by the 2<sup>nd</sup> respondent on 30.05.2007 and the consequential notice issued by the 1<sup>st</sup> respondent on 04.07.2007 seeking to evict him from the land in an extent of Ac.0.05 cents in Sy.No.177 of Elkapalli village, Bejjur Mandal, Adilabad District.

2. The land in Sy.No.177 consists of Ac.89-40 cents. In the said land, 118 house sites were allotted to the beneficiaries covering to an extent of Ac.11.80 cents. Respondent No.3 was assigned Government land in Sy.No.177/2 to an extent of Ac.2.00 and pattadar pass books and title deeds were also issued to him. The petitioner was also assigned an extent of Ac.0.10 cents of land in the same survey number in the year 1995 for house site purpose. But the boundaries to the said land are in dispute. Respondent No.3 herein filed a petition before the 2<sup>nd</sup> respondent alleging encroachment of Ac.0.05 cents of land by the petitioner out of Ac.2.00 allotted to him by the Government and since respondent No.3 belongs to Scheduled Caste community, the 2<sup>nd</sup> respondent took up the proceedings under the provisions of Scheduled castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and issued orders on 30.05.2007 directing the 1<sup>st</sup> respondent to evict the petitioner and restore possession of the land to the 3<sup>rd</sup> respondent. As a consequence thereof, the 1<sup>st</sup> respondent issued a notice on 04.07.2007 and challenging the same the present writ petition is filed.

3. Learned Counsel for the petitioner submits that Ac.0.05 cents of land on which the petitioner raised a hut belongs to him and it forms part of Ac.0.10 cents of land assigned in 1995.

4. Learned Counsel for the 3<sup>rd</sup> respondent submits that Ac.0.05 cents of land occupied by the petitioner forms part of Ac.2.00 of land in Sy.No.177/2

assigned to him.

5. The aforesaid issue was not decided by the 2<sup>nd</sup> respondent after issuing a notice to the petitioner. A summary order was passed by the 2<sup>nd</sup> respondent by taking cognizance of the complaint filed by the 3<sup>rd</sup> respondent under the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Since the serious dispute is with regard to the title and possession of the land, this summary disposal of the case by the 2<sup>nd</sup> respondent cannot be appreciated.

6. Accordingly, the order passed by the 2<sup>nd</sup> respondent on 30.05.2007 and the consequential notice issued by the 1<sup>st</sup> respondent on 04.07.2007 to the extent of ordering eviction of the petitioner are set aside. However, since the identity of the land is involved, the 1<sup>st</sup> respondent-Tahsildar, Bejjur, Adilabad District, is directed to conduct an enquiry in respect of possession of the land of the petitioner and that of respondent No.3 with the help of Mandal Surveyor after issuing notice to both the parties and pass appropriate orders thereon within a period of three months from the date of receipt of a copy of this order. Till such time, the petitioner as well as the 3<sup>rd</sup> respondent shall not make any construction or alter physical features of land in an extent of Ac.0.05 cents involved in the present dispute.

7. The Writ Petition is disposed of accordingly. No order as to costs.

8. Miscellaneous petitions, if any, pending shall stand closed.

\_\_\_\_\_ **A.RAMALINGESWARA RAO, J**

16-02-2016

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