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HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.29208 of 2010

ORDER:

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This writ petition is filed for a *mandamus* declaring the action of the 2nd respondent in trying to dispossess the petitioners from the plots in Sy.No.55 of Rajupeta village, Ramakuppam Mandal, Chittoor District in an extent of Ac.0.02 cents each of plot Nos.3 and 4, as illegal, arbitrary and violation of principles of natural justice and consequently direct the respondents not to interfere with peaceful possession and enjoyment of the petitioners' schedule plots without following due process of law.

2. The case of petitioners is that petitioner No.2 and her sister were granted house site patta in Sy.No.55, Plot Nos.3 and 4 to an extent of Ac.0.02 cents by the respondent No.1 and they have also constructed houses in the above plots. They have been paying house taxes and electricity bills without any default. The said house sites were granted in the year 2005 in VHS 727/05, dated 14-05-2005 and 728/05, dated 14-05-2005 respectively. While things stood thus, without any notice or without any opportunity of being heard, the respondents straight away are trying to dispossess them from the peaceful possession and enjoyment of the plots. Aggrieved by the same, the present writ petition is filed.

3. Counter-affidavit is filed by Respondent Nos.1 and 2 stating that as the pattadars have not constructed the houses as on date from the date of issuance of patta and violated the condition No.2 of the patta and as the pattadars are residing in Doddaballapur of Karnataka State and the pattadars are not having ration cards and they are not voters in Rajupeta village and further as the land is required for construction of Grama Panchayat Building, the respondent No.1 issued proceedings Roc.B1/8088/2010, dated 09-11-2010 cancelling the house site pattas issued in favour of petitioners and in pursuance of the said order, the land was resumed to Government under a cover of panchanama on 18-11-2010 and the same was handed over to the Sarpanch, Rajupeta and construction of building is under progress.

4. The petitioners filed reply-affidavit disputing the submissions made in the counter-affidavit and state that petitioners have constructed houses in the house sites granted to them and they are in possession of the same.

5. The learned counsel for petitioners submits that the order, dated 09-11-2010, cancelling pattas issued in favour of petitioners is not communicated to petitioners, as such, petitioners could not prefer appeal against that order. Though reply-affidavit is filed, it is silent about that aspect.

6. Learned Government Pleader submits that the order dated 09-11-2010 cancelling house site pattas was passed by issuing notice to petitioners and petitioners should have filed

appeal and without filing the appeal, they have resorted to file the present Writ Petition, hence the Writ Petition is not maintainable.

7. At the stage of admission, this Court granted *status quo* on 31-12-2010. Since the petitioner has alternative efficacious remedy by way of appeal against the order in Roc.B1/8088/2010, dated 09-11-2010 passed by the respondent No.1 and since the *status quo* has been in operation from the year 2010 onwards, petitioners can file the appeal against the order in Roc.B1/8088/2010, dated 09-11-2010 within a period of eight weeks from today along with stay petition. If the appeal is filed by petitioners, the appellate authority shall pass orders in the stay petition/appeal in accordance with law. Till filing of the appeal by petitioners, the *status quo* granted by this Court on 31-12-2010 shall be continued. If appeal is not filed by petitioners, respondent-authorities can proceed with the matter and take further action in pursuance of the order in Roc.B1/8088/2010, dated 09-11-2010 passed by the respondent No.1.

8. With the above direction, the writ petition is disposed of. No costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A. RAJASHEKER REDDY, J

Date: 10-03-2016

SKMR