

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.29528 of 2011

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ORDER:

This petition is filed for a writ of *Mandamus* declaring the action of the respondent in issuing endorsement dated 19.09.2011, rejecting the request of the petitioner for survey and fixing boundaries, stating that no sub-division was done in the field measurement book, as illegal and arbitrary.

The case of the petitioners is that the 1st petitioner is in possession and enjoyment of the land in Sy.No.128/2 to an extent of 0.08 cents and the 2nd respondent is in possession and enjoyment of the land in the same survey number to an extent of 0.08 cents situated at Rajupeta, Tiruvuru Village and Mandal, Krishna District; that the said property is the ancestral property of the petitioners and that there is no third parties interest involved in the said land. It is stated that originally the subject land was belonging to one Uppathala Pullaiah who was the pattadar and that after his death the petitioners succeeded the property and his name was also recorded in the revenue records as pattadar and possessor. While so, the State Government has formulated 'Indiramma' scheme for construction of houses under state Housing Corporation. As such, the petitioners also applied for grant of houses under the said scheme and the same was sanctioned. It is further stated that for the purpose of construction of houses under the said scheme, fixing boundaries and demarcation is necessary. As such, the petitioners submitted a representation to the respondent with a request to survey the said land and fix boundaries, by enclosing necessary documents. But,

the respondent rejected the same. Hence, the petitioners filed the present writ petition.

The respondent filed counter stating that the petitioners were never in possession and enjoyment of the subject land as alleged and that a civil suit is pending over the subject land on the file of the Principal Junior Civil Judge, Tiruvuru in OS.No.211/2011 and that the petitioners are the respondents in the above suit filed by Sri Uppatala Nagaraju who is the actual enjoyer and possessor of the subject land. It is further stated that the subject land i.e. Ac.0.16 cents out of Ac.0.98 cents in Survey no.128/2 of Rajupeta Village of Tiruvuru Mandal, is in possession and enjoyment of Uppatala Nagaraju since long back and that in view of the aforesaid facts, the revenue authorities could not perform the survey related works and sought for dismissal of the writ petition.

Heard learned counsel for the petitioner and learned Assistant Government Pleader for Revenue.

In the instant case, admittedly civil suit OS.No.211/2011 is pending between the petitioners and third parties on the file of the Principal Junior Civil Judge, Tiruvuru. The petitioners state that they are the owners of Ac.0.16 cents and the same is disputed by the respondent in the counter affidavit. Further, the third parties who are claiming rights over the said land are not before this Court. These disputed questions of fact cannot be gone into the writ petition. More so, a civil suit is pending between the parties. In view of the same, I do not see any merits in the writ petition.

Accordingly, the writ petition is dismissed. However, it is open for the petitioners to seek appropriate remedy in the civil suit

filed against them. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending,
in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

17.02.2016
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