

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.13509 of 2009

ORDER:

Learned counsel appearing for the parties, at the interlocutory stage, made submissions in the writ petition and accordingly, with their consent, the writ petition is disposed of.

The subject matter of the writ petition is Ac.0-01½ cents of piece of land in Sy.No.84-4B of Amuzuru Village, K.Gangavaram Mandal, East Godavari District.

The petitioner prays for Mandamus declaring the action of respondents in threatening to dispossess her from the subject matter of the writ petition without recourse to law as illegal, arbitrary and unconstitutional.

The case of petitioner is that respondent No.3 in Ref.No.2039/05, dated 30-07-2005 granted Possession Certificate to her in recognition of her long and settled possession on the subject matter of the writ petition. According to petitioner, the respondents are now forcibly trying to dispossess her from her dwelling house.

On 08-07-2009, this Court directed parties to maintain status-quo obtaining as on that date and 3rd respondent filed W.V.M.P.No.312 of 2010 to vacate the said interim order.

To appreciate the casual manner in which the counter affidavit is filed, this court considers it appropriate to reproduce the averments in paragraph '2' of the counter affidavit of 3rd respondent, which read as under:-

“It is submitted that it is not correct to say that the petitioner put in an application on 29.7.2005 by suppressing the facts, for sanction of possession certificate for an extent of Ac.0-01 ½ cents in Survey No.84/4B of Amjuru Village with the recommendation of the then Panchayat Secretary, Amjuru Village, the then Mandal Revenue Officer, Pamarru (K.Gangavaram) was sanctioned house site possession certificate on 30.7.2005. Here after the Mandal Revenue

Officer, Pamarru (K.Gangavaram) was personally enquired and issued notice to the petitioners herein to prove her right on the above house site. The Notice was served on 30.7.2005 by affixing on the wall of applicant's residence as the applicant rejected to take notice. On next day she was came to Mandal Revenue Officer's Office, Pamarru (K.Gangavaram) with her original possession certificate and no record was produced confirming her right on house site. Hence, the possession Certificate issued in favour of the petitioner on 30.7.2005 for an extent of Ac.0-01 ½ cents in S.No.84/4B of Amjuru Village was cancelled on 31.7.2005 confirming the site belongs to Godavari Milk Dairy of Amjuru Village of K.Gangavaram Mandal. Hence, the petitioner has no right on the petition schedule land in Sy.No.84/4B for an extent of Ac.0-01 ½ cents of Amjuru Village, K.Gangavaram Mandal. The cancelled original possession certificate and original notice are herewith submitted for taking necessary steps in this matter."

Firstly, along with the counter, no annexure evidencing the cancellation of Possession Certificate is filed and, therefore, on the mere assertion that Possession Certificate is cancelled, the plea set up by the respondents, cannot be accepted. The other infirmity this court finds in the counter of 3rd respondent is that on 30-07-2005 the petitioner was given Possession Certificate by 3rd respondent. It is difficult to imagine that on 30-07-2015 itself notice for cancelling Possession Certificate was apprehended on the dwelling house of the petitioner, cancellation order was passed on 31-07-2005. The averment that the petitioner continued to be in possession of the small extent of Ac.0-1 ½ cents in Sy.No.84-4B of Amuzuru Village, K.Gangavaram Mandal, East Godavari District is not challenged. Further, it is not the case of respondents that the petitioner's possession of subject matter of the writ petition is otherwise objectionable.

For all the above reasons, this court is not inclined to accept the existence or legality of proceedings, dated 31-07-2005 to which reference is made to show that Possession Certificate was cancelled and the respondents are entitled to recover possession from the

petitioner.

Hence, the respondents are directed not to interfere with the petitioner's possession by reference to alleged cancellation order, dated 31-07-2015.

Accordingly, the writ petition is disposed of. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT, J

Date:07-04-2016
Prv

THE HON'BLE SRI JUSTICE S.V.BHATT

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Dated 07-04-2016

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