

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.24962 OF 2011

ORDER:

The case of the petitioner is that he was assigned DKT patta for the land admeasuring Ac.2.50 cents situated in Survey No.1597 of Penagaluru Revenue Village of YSR Kadapa District in the year 1977 vide proceedings No.57/87-3077 by the then Tahasildar. Ever since the grant of patta the petitioner is cultivating the same by raising seasonal crops. While that being so, the 4th respondent purchased lands of petitioner's neighbouring survey Nos.1588, 1589, 1594, 1595, 1596/1, 1596/2 and 1599 from their vendor about seven years back and there exists a black top road to reach their property through N.R.Puram Road and the same has been in existence since the time immemorial. Due to political differences between the petitioner and the 4th respondent, the 4th respondent influenced the 2nd respondent to provide the Cart Tract to be passed through petitioner's land being cultivated by the petitioner, with an oblique motive to create wrongful loss to the petitioner. Basing on that the 2nd respondent visited the petitioner's property to identify the land for laying Cart Track through the petitioner's land and thereafter the 3rd respondent issued the impugned notice

asking the petitioner to provide the way within 15 days. Aggrieved by the same present writ petition is filed.

The 3rd respondent filed counter affidavit stating that the 4th respondent submitted a petition requesting for providing 'rastha' to their patta lands in Penagalur village; that after conducting enquiry the 3rd respondent submitted a report to the Revenue Divisional Officer, Rajampet stating that all the surrounding lands are patta lands and hence the 4th respondent requested to provide rastha to their patta lands. Having perused the report and having noticed that the lands surrounding the patta land of the 4th respondent are all patta lands, a part of the land that was assigned to the petitioner was proposed for providing rastha to the adjacent land owners. It is also stated that there is no government 'rastha' to the said patta lands and more over as per the D-Form patta conditions, the land can be resumed for public purpose and for 'rastha'. It is also stated that the action of the respondent in issuing the impugned notice is perfectly in accordance with law and for public purpose i.e. for providing rastha to the adjacent patta land holders. It is further stated that the lands proposed to be taken for rastha was identified on one side of the land without disturbing the mango garden raised by the petitioner.

The 4th respondent also filed counter affidavit stating that the petitioner is having more than 45 acres of land in his name and his family members and he is not eligible for grant of DKT patta of Government land; that the total extent of Survey No.1597 is more than Ac.2.50; that the revenue authorities assigned an extent of Ac.2.50 to the petitioner though the petitioner is not eligible for grant of Government land and that the remaining extent at the end of survey No.1597 is being used as cart track for the last several years, but, the petitioner has closed the cart track existing in survey No.1597 by fencing with barbed wire, and as such, the 4th respondent made a representation to the respondents on 11.07.2011 to restore the cart track that was existing in Survey No.1597 and thereafter the 3rd respondent issued the notice dated 27.08.2011 directing the writ petitioner to leave the space in the government land for the purpose of cart track to go to patta lands situated at the back side of survey No.1597. It is further stated that the 4th respondent paid Rs.300/- through challan No.15621, dated 18.07.2011 to conduct survey of S.No.1597 but, the 3rd respondents has not taken any action.

The petitioner filed reply affidavit denying the contents in the counter affidavit and reiterated the averments in the writ affidavit.

Learned counsel for the petitioner submits that when the petitioner was assigned land to an extent of Ac.2.50 cents in Survey No.1597, the same cannot be resumed and that even when the respondents want to resume the petitioner's assigned land, the petitioner is entitled for grant of compensation in terms of Judgment in ***LAO-cum-Revenue Divisional Officer, Chevella Division, Domalguda, Hyderabad v. Mekala Pandu (2002 (5) ALD 23)*** and the 3rd respondent has no authority to resume the land without payment of compensation.

Heard learned Assistant Government Pleader for Revenue and the learned counsel for the 4th respondent.

Even in the counter affidavit filed by the 3rd respondent it is not disputed that the petitioner was assigned lands and that he has been cultivating the same. In order to provide the way to the adjacent land owners, the respondents want to resume some part of land assigned to the petitioner and issued the impugned notice. No doubt, as contended by the learned counsel for the petitioner when once the land is

assigned the same can be cancelled only on violation of conditions of patta by the assignee or if the same is required for public purposes. Even the assigned land is resumed for public purposes the assignee is entitled for compensation. In view of the same, the respondents cannot resume the land without paying any compensation to the petitioner.

But the grievance of the 4th respondents is that though the petitioner was assigned only Ac.2.50 cents in Survey No.1597 the petitioner was cultivating the entire land of Survey No.1597 by closing the cart track which was existing in the remaining land and that though he submitted application on 18.07.2011 to the respondents to conduct survey of Survey No.1597 by paying Rs.300/- through challan No.15621, the 3rd respondent has not taken any action.

When the 4th respondent made an application to conduct survey, the 3rd respondent would have conducted enquiry considering the application of the petitioner and take action. In view of the same, the impugned order is set aside. However, the 3rd respondent is directed to consider the application dated 18.07.2011 submitted by the 4th respondent for conducting survey, and take action in accordance with law after giving notice to the petitioner as well as 4th respondent. The 3rd respondent is also directed to conduct enquiry as to

whether the petitioner was eligible for grant of patta, as it is complained that he was not landless poor person as on the date of granting patta.

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

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

28.10.2016
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A.RAJASHEKER REDDY, J

