

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO
WRIT PETITION No.14550 OF 2011

ORDER :

Petitioners have been granted house site pattas by the respondents under the A.P. Board Standing Orders in the year 2004 vide proceedings in Rc.B.218/4 dt.02.02.2004, and after the grant of pattas, possession was given to them and they constructed houses by borrowing money and are residing therein.

2. Petitioners allege that on 19.06.2010 respondents 2 and 4 came to their plots with police force and threatened to demolish the structures erected by the petitioners and to evict the petitioners. They allege that no notices were issued to them by the respondents to show cause, why they should not be evicted from the structures erected therein or why the said structures should not be demolished and no proceedings have been issued for cancellation of the house site pattas granted to them. Petitioners allege that again on 16.05.2011, the 4th respondent came to the houses of the petitioners and directed the petitioners to vacate the houses or else threatened to demolish their structures. Petitioners allege that this is being done at the instance of local political leaders so that the plots in the occupation of the petitioners could be allotted to their followers under 'Indiramma Housing Scheme'.

3. On 24.05.2011 this court granted interim stay of demolition for a period of four weeks and the said order was

extended from time to time and is subsisting as on today.

4. The 1st respondent filed a counter affidavit stating that the plots in occupation of the petitioners were not within the jurisdiction of the 1st respondent, since Kullurupalli village where they are located, was not included in the Nellore Municipal Corporation limits and that the staff of the said Corporation never attempted to demolish the petitioners' houses.

5. Respondents 2 and 4 filed counter affidavit alleging that some of the petitioners have violated the terms and conditions of the grant and left their plots vacant without constructing houses within the stipulated time and some others had alienated the assigned plots. They allege that no cancellation orders were issued canceling the assignment of the house site pattas granted to the said individuals and that action is being initiated under due process of law against the petitioners, who violated the terms and conditions of the grant.

6. Reply affidavit has been filed by the petitioners denying the above allegations in the counter affidavit filed by respondents 2 & 4 and contending that the Mandal Surveyor, who submitted report adverse to the petitioners, colluded with some private persons and prepared a false report contrary to the ground realities. Certain photographs were also filed showing the constructions made by the petitioners and

pointing out that no document has been filed by the respondents in support of their pleading that some of the petitioners have alienated their house plots to third parties. They also contended that houses of some of the petitioners, such as petitioners 3 to 7, were demolished by the respondents unauthorizedly due to political leaders' pressures.

7. From the above facts, it is admitted that petitioners have been allotted house site pattas in 2004 by respondents 2 to 4. If there is any violation of the terms of the grant, for example, if any of the petitioners had either not made constructions in the house plots or had alienated the plots allotted to them, appropriate action ought to be initiated by the respondents against them under the provisions of Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 or Board Standing Order 15, after issuance of show cause notice to them inviting their explanation and then passing reasoned orders. It is not open to the respondents to attempt to demolish the structures erected by the petitioners or even to demolish the structures erected by them without following due process of law, since respondents 2 and 4 in their counter have stated that action would be initiated under due process of law against the petitioners, who have violated the terms and conditions of the grant.

8. The said undertaking of the respondents is recorded and

the respondents are restrained from interfering with the possession and enjoyment of the petitioners over the plots assigned to them or the structures erected by them in the said plots, without following due process of law as laid down in Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 or Board Standing Order 15.

9. The Writ Petition is allowed as above. There shall be no order as to costs.

10. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S. RAMACHANDRA RAO, J

07th June, 2016
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