

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.35994 of 2012

ORDER:

The case of the petitioner is that she was granted D-Form patta in respect of land admeasuring Ac.3-08 cents in Sy.No.36/2 of Nandanur Revenue Village, G.D.Nellore Mandal, Chittoor District vide patta No.AM.No.109/4/1395, dated 02-12-1985. Since then, the petitioner is in continuous possession and enjoyment of land and she was granted pattadar passbook and title deed. Originally, the land was not fit for cultivation and the petitioner and her family members brought the same to fit for cultivation and the petitioner also dug bore well and erected electrical motor with service connection. Half of the subject land is covered with mango trees and half of the subject land is being cultivated with dry crops. On 22/23-06-2012 the 2nd respondent directed the petitioner to evict the land without any written orders. Aggrieved by the same, the present writ petition is filed.

Counter affidavit is filed by the 2nd respondent. The land admeasuring Ac.5-06 cents in Sy.No.36 of Nandanur village of G.D.Nellore Mandal is classified as government dry as per the 'A' Register of the village. On verification of the revenue records, it is found that extent of Ac.3-08 cents in Sy.No.36/2 was assigned as per the DKT patta

No.232/4/1371, dated 07-10-1961 and as per the Adangal of the village, said land stands in the name of DKT pattadar, K.Mohan and the petitioner was not granted any assignment of land in Sy.No.36/2, measuring an extent of Ac.3-08 cents in Nandanur village of G.D.Nellore Mandal. The DKT patta bearing AM.No.109/4/1395, dated 02-12-1985 referred to by the petitioner is not related to her, it is related to the grant of assignment of land measuring an extent of Ac.1-36 cents in Sy.No.656/B/2A of G.D.Nellore Village and Mandal, in favour of Sri Dorai, of G.D. Nellore village and Mandal. This land is not situated in Nandanur Village. Hence, the DKT patta referred to above is not correct. It is stated that the petitioner has no right over the subject land and occupied a portion of the land in Sy.No.36/2 to an extent of 0.55 cents and fenced with barbed wire with an intention to grab the government land. Out of total extent of Ac.3-08 cents of land in Sy.No.36/2, an extent of 0.55 cents of land is in occupation and the remaining land is covered with boulders and with shrub growth. It is also stated that the appeal is pending vide Appeal No.G/41/2010 for grant of pattadar passbook filed by one K.Pattabhi Reddy and the petitioner is a party to the said appeal. The 2nd respondent or his subordinates have not given any oral instructions or notices to the petitioner to

vacate the land on 22/23-06-2012 and also on 28-06-2012 as contended by her. Hence, sought for dismissal of the writ petition.

Heard learned counsel for the petitioner, who submits that since the patta granted in favour of the petitioner is subsisting and the pattadar passbooks and title deeds are issued, the respondents cannot evict the petitioner without following due process of law.

Learned Assistant Government Pleader basing on the counter submits that the respondent-authorities are not interfering with the possession of the petitioner in respect of 55 cents, as the petitioner is found in possession of 55 cents.

The petitioner relied on patta granted vide patta No.AM.No.109/4/1395, dated 02-12-1985 and claims ownership of Ac.3-08 cents. Reply affidavit was also filed asserting that the petitioner is the owner of Ac.3-08cents. She also relied on possession and enjoyment certificate issued by the Mandal Revenue Officer, Gangadhra Nellore and also pattadar passbook and title deeds and also on some revenue records. The grant of patta is not disputed by the respondents in the counter, but admitted possession only to the extent of 55 cents. It is also stated in the counter that the appeal filed by third parties against grant of pattdar passbook in favour of the petitioner is

pending. It is to be seen that this Court passed orders on 27-11-2012 directing the District Judge, Chittoor to depute a responsible Officer to inspect the subject land and submit a report. In pursuance of the same, report was submitted by the Additional Senior Civil Judge, Chittoor, which reads as under:

“The said Ac.3-08 cents of land is situate in Sy.No.36/2 at Maredupalli Village in Nandanur Revenue Village of Gangadhara Nellore Mandal.

Out of total extent of Ac.3-08 cents, only in Ac.0-55 cents of land the following trees are situate:

Sl.No.	Name of trees	Number of trees	Age of trees
01	Mango	25	4 to 5 years
02	Sapota	05	4 to 5 years
03	Teak	22	4 to 5 years
04	Banana	12	2 years
05	Coconut	02	3 years
06	Guava	01	3 years

Further, one borewell with 7.5 HP having electricity service connection bearing No.451 is also situate in the said Ac.0-55 cents of land.

I humbly submit that the remaining land is with BIG BOULDERS, BUSES AND SHRUBS and the same is kept as vacant.

I further submit that the said Ac.0-55 cents of land is shown in my rough plan with green colour and the remaining land is shown with red colour. Further, in the middle of Ac.3-08 cents of land a public road leading from Maredupalli to Krishnapuram is located.

I humbly submit that after completion of my inspection at 1.40 pm on 28-11-2012, I have taken signatures of the persons mentioned above who were present at the time of my inspection in my spot notes. Hence this report.”

The above report goes to show that mango trees and other coconut, teak, guava banana and sapota trees are existing only in Ac.0-55 cents, which falsifies the claim of the respondents. This Court granted interim order dated 12-12-2012 to the extent of Ac.0-55 cents basing on the report of the Additional District Judge. The respondents have also stated that they have not issued any orders evicting the petitioner to an extent of Ac.0-55 cents and in view of the same the petitioner shall not be evicted from the Ac.0-55 cents of land in Sy.No.36/2 without following due process of law.

Accordingly, this writ petition is disposed of. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

21-11-2016

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