

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 29657 OF 2012

ORDER:

This writ petition is filed questioning the interference of the respondents with the peaceful possession and enjoyment of the petitioner over an extent of Ac.0-02½ cents in building bearing D.Nos.1-315 & 316 in Survey Nos.23/1 and 2 of Edarapalli Village, Amalapuram Mandal, East Godavari District.

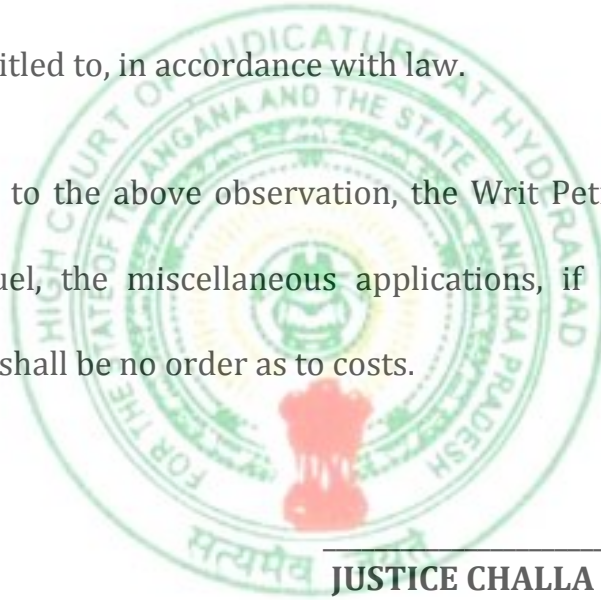
2. It is the specific case of the petitioner that he has been in peaceful possession and enjoyment of land to an extent of Ac.0-2½ cents in R.S.No.23/1 & 2 of Edarapalli Village, Amalapuram Mandal. Out of the said Ac.0-2½ cents, the revenue authorities granted patta in favour of the petitioner over Ac.0-01½ cents on 31.12.1992 under Patta No.1173/92. Though the said extent of land does not belong to the second respondent, the second respondent is trying to evict the petitioner along with their extent of Ac.0-48 cents in S.No.158 of Amalapuram. Further, it is the specific case of the petitioner that the second respondent has filed various OAs and O.A.No.87 of 2002, which is filed against the petitioner herein, is only in relation to the land in Survey No.158 and has got nothing to do with the land in Survey Nos.23/1 and 2. The respondents are trying to dispossess the petitioner by showing the order in OA without any authority.

3. A counter affidavit is filed by the Executive Officer on behalf of the second respondent Temple. The sum and substance of the counter affidavit is that the second respondent had filed various OAs before the Deputy Commissioner, Kakinada, and the petitioner was a party in O.A.No.87 of 2002, which came to be ordered on 20.02.2007 and the revision filed by the petitioner against the same also came to be dismissed on 28.02.2011 and the land which the petitioner is now claiming is forming part of Survey No.158.

4. Having considered the respective submissions, it is clear and evident that the OA filed by the second respondent is only with respect to the land to an extent of Ac.0-48 cents in Survey Nos.158 and 159. Admittedly, there is a clear dispute with respect to the identity of the property. As there is no mention in the order passed by the Deputy Commissioner in O.A.No.87 of 2002 that the said order relates to the property in Survey Nos.23/1 and 2, *prima facie*, the order in O.A. does not give a right to the respondents to seek eviction of the petitioner from Survey Nos.23/1 and 2. If at all the respondent-authorities are to succeed, it is for them to take appropriate proceedings in accordance with law seeking to establish their right with respect to the property in Survey Nos.23/1 and 2. The mere contention of the respondents that the order in OA covers the land in Survey number, in question, or the patta alleged to have been granted in favour of the petitioner is a fabricated one, cannot be countenanced.

5. In those circumstances, the respondents are directed not to interfere with the possession and enjoyment of the petitioner over the land to an extent of Ac.0-02½ cents in Survey Nos.23/1 and 2 based on the patta alleged to have been granted in favour of the petitioner. However, it is made clear that this Court is not expressing any opinion with respect to the genuineness or otherwise of the patta. This observation is only for the purpose of disposal of this writ petition and it is always open for the respondent authorities to initiate proceedings and recover possession from the petitioner, if they are otherwise entitled to, in accordance with law.

Subject to the above observation, the Writ Petition is disposed of. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.



JUSTICE CHALLA KODANDA RAM

November 3, 2016

LMV