

THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.19656 of 2017

ORDER :

This writ petition is filed under Article 226 of the Constitution of India, seeking the following relief:

“..to pass an order or orders or writ particularly one in the nature of a Writ of Mandamus declaring the action of respondents 3 & 4 in trying to dispossess the petitioner from her land in Sy.No.17/43 admeasuring to an extent of Ac.4-08 gts, situated at Laxmidevi Village & Mandal, Bhadradi Kothagudem District, without issuing any notice and without there being any authority of law and without following any procedure prescribed under law as being illegal arbitrary against the principles of natural justice and violation of the Petitioner's rights guaranteed under Article 21 and 300-A of the Constitution of India and consequently, direct the Respondents not to dispossess or in any manner interfere with the peaceful possession and enjoyment of the petitioner land and pass such other order or orders as this Hon'ble Court deems fit and proper in the interest of justice...”

Heard learned counsel for the petitioner and learned Government Pleaders for Forests and Revenue for respondents and perused the prayer in the writ petition with supporting affidavit and other material on record including the written instructions.

It is the claim of the petitioner that originally one Kunja Suraiah was granted patta in 1955-56 for Serial Nos.1448 and 1465 respectively in Survey No.17 situated at Laxmidevipalli Village and Mandal, Bhadradi Kothagudem District saying he was Koya by caste and that the petitioner is no other than the said K.Suraiah's niece and succeeded for no other closest legal heirs to K.Suraiah and respondents 1 to 4 are trying to dispossess her by taking law into their hands, though she is the legal heir of the said original pattadar and bonafides made herself by raising mango garden,

which is riped for enjoyment of usufruct and the respondents have no right to prevent her enjoyment of usufruct.

The written instructions placed by the learned Government Pleader for Forests read that in the year 1956, some pattas were granted by the Special Social Service Officer, Yellandu to 54 persons mistakenly. According to Section 33 of the Hyderabad Land Revenue Act, 1317 fasali, no patta in a reserve forest can be granted without consulting the Chief Conservator of Forests and the entire survey number of Laxmidevipalli is the part of the forest land. The alleged persons in occupation not even tribals but the so called assignees from the tribals and they are encroachers of the Government forest land and the irregular pattas granted by the revenue people not binding, thereby, the forest people are entitled to take recourse to evict them from the forest land. It is also the contention that the petitioner is no way concerned with the so called K. Suraiah. It is also the contention that the illegal pattas granted by the then Tahsildar for the forest land covered by the Forest (Conservation) Act, 1980, was without permission of the Government of India for dis-reservation of the forest land, was no way binding the petitioner and she is liable to be evicted.

In fact, it is the submission of the learned counsel for the petitioner that the petitioner has to agitate illegal acts of the respondents and the respondents cannot take law into their hands and under the said protest, the petitioner bona fide raised mango garden and also dug a bore well to pump underground water for nurturing the trees and she is entitled to compensation otherwise under Section 51 of the Transfer of Property Act.

Having regard to the above, this Court cannot go into the disputed questions of fact and the Writ Petition is disposed of directing the respondents to consider the representation of the petitioner dated 29.05.2017, within one week from the date of receipt of copy of this order on its own merits, if at all to take legal recourse through due process of law and mean time not to evict the petitioner. No costs.

Consequently, miscellaneous petitions, if any, pending shall stand closed.

Dr. B. SIVA SANKARA RAO J,

Date: 19.06.2017
pab

