

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.20844 OF 2005

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue appearing for the respondents 1 to 3 and the learned Standing Counsel Visakhapatnam Urban Development Authority appearing for respondent No.4.

2. The present Writ Petition, under Article 226 of the Constitution of India, came to be filed with the following prayer:

“..to issue writ, order or direction more in the nature of Mandamus or any other appropriate writ declaring the action of the respondents in interfering with the peaceful possession and enjoyment of the petitioner's land to an extent of Ac.4.00 in Sy.No.371/1 of Madhuravada village of Visakhapatnam Rural, Visakhapatnam District and tried to evict the petitioner from the said land without any prior notice or opportunity and without following the due process of law as illegal, arbitrary, contrary to Principles of Natural Justice and Articles 14, 19(1)(g) and 300-A of Constitution of India.”

3. Brief facts of the case are as under:

The petitioner, who claims to be a landless poor person, made an application for grant of Government land by way of D-Form Patta. After due enquiry, the then Tahsildar of Visakhapatnam, granted D-Form Patta to an extent of Ac.4.00 cents in Sy.No.371/1 of Madhuravada Village of Visakhapatnam Mandal and District, vide proceedings D.R.No.412/84, dated 04.06.1984. Since then, the

petitioner claims to be in possession of the said land by cultivating the same. While things stood thus, the 3rd respondent issued proceedings dated 04.08.2003 cancelling the D-Form patta granted to the petitioner. Challenging the same, the petitioner approached this Court by filing Writ Petition No.3487 of 2004, wherein this Court in the order, dated 26.02.2004, observed that the impugned order therein was in utter violation of against the principles of natural justice as no notice was issued to the petitioner before cancelling the D-Form Patta granted in his favour and accordingly set aside the same. It is said that the petitioner has been in possession of the land and was also issued pattadar passbook in year 2000. While so, the respondents are trying to interfere with the peaceful possession and enjoyment of the petitioner over the land mentioned above under the guise of policy decision taken by the Government.

4. Learned counsel for the petitioner would submit that the respondents are interfering with the possession and enjoyment of the petitioner over the subject land without following due process of law.

5. Learned Government Pleader for Revenue, on instructions, would submit that respondents will follow the due process of law before taking any action in respect of the land in dispute.

6. Having regard to the submissions made, the Writ Petition is disposed of directing the respondents not to interfere with the

peaceful possession and enjoyment of the petitioner in respect of the land to an extent of Ac.4.00 cents in Sy.No.371/1 of Madhuravada Village of Visakhapatnam Mandal and District, without following due process of law. It is made clear that any action to be taken by the respondents shall be in accordance with the procedure established by law.

Consequently, Miscellaneous Petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

Date:23.08.2017
INL

JUSTICE C. PRAVEEN KUMAR

