

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.14491 OF 2009

ORDER:

The case of the petitioners is that petitioners are the owners and pattedars of agricultural land to an extent of Ac.15-83 cents in Sy.No.625 of Dhulipala Village, Sathenapalli Mandal, Guntur District. Petitioners have been issued pattadar pass books in their favour and that they have obtained crop loan from Andhra Bank, Sathenapally Branch, Guntur District by mortgaging their lands and the said lands are still under mortgage. While so, taking advantage of absence of the petitioners from the village, the respondents 2 and 3 bent upon to occupy the said lands highhandedly for the purpose of construction of summer storage tank, without following due process of law. Aggrieved by the same, the present writ petition is filed.

Counter affidavit is filed by the 3rd respondent stating that the Government vide G.O.Ms.No.281 dated 18.07.2008 of PR & RD (RWS-II) Department, the Engineer-in Chief, RWS & S, Hyderabad has technically sanctioned an amount of Rs.850.00 lakhs for the work "Providing CPWS Scheme to quality affected habitations in Sattenapalli And Medikonduru Mandals of Guntur District". In the sanctioned project, a summer storage tank is to be formed and accordingly, the Gram Panchayat has resolved to take up SS tank in Veerabhadra Cheruvu of Dhulipala Village. It is stated that originally Sy.No.625 is one part of the Veerabhadra Cheruvu with an extent of 59.20 acres. Out of the same, an extent of 15.82 acres in Sy.No.625/9 was allotted to Peddipogu Chenni, Sy.No.625/12 to

Katikineni Rama Swamy, Sy.No.625/3, 625/19, 625/21 and 625/31 to Potipadu Usha Kiran, Sy.No.625/20 to Smt Dugga Nagamma, Sy.No.625/22 to Smt Ravu Jhansi Lakshmi and Sy.No.625/32 to Potlapalli Siva Durga, who are not the petitioners. As per Adangal, there is no cultivation taken up in the said lands since long back. Therefore, the Collector and District Magistrate, Guntur issued Note Orders for cancellation of pattas and permission was granted to proceed with the SS tank work. As such petitioners are no way concerned with the said lands.

Counter affidavit is filed by the 4th respondent stating that since the original assignees are not cultivating the subject lands from long time, notices were issued and orders of eviction were passed. It is also stated that the petitioners are purchasers of the subject lands but not the pattadars of the subject lands.

Learned counsel for the petitioners submits that though petitioners are the owners of the subject lands, no notices were issued to the petitioners before passing the eviction orders, which is in violation of principles of natural justice. He further submits that the purchasers are also entitled for notice, according to the provisions of A.P.Assigned Lands (Prohibitions of Transfers) Act, 1977.

On the other hand, learned Assistant Government for Revenue submits that after passing of the eviction orders, the tank has been constructed in the subject lands.

Learned counsel for the 5th respondent submits that 5th respondent claims an extent of Ac.1-36 cents in Sy.No.625/12 situated at Dulipala Village, Sattenapally Mandal, Guntur District

basing on the Will dated 05.01.1990 executed by her father-in-law in favour of her husband, who died on 18.12.2001.

It is to be seen that petitioners asserted in the writ petition that they are the owners of the subject lands and they have been granted pattadar pass books. The counter filed by the 3rd respondent goes to show that notices were issued to the original assignees, who are not the petitioners but the learned counsel for the petitioners disputes the same stating that the wife of the first petitioner is the original assignee. No reply affidavit is filed by the petitioners opposing the contents of the counter affidavit. In the writ petition, it is not clear from whom the petitioners have purchased the subject lands. As far as eviction orders in R.C.No.178/2003-A dated 05.10.2010 is concerned, notices were issued to the original assignees before passing the same.

In view of the above, since already eviction orders are passed after issuing notices to the original assignees, and since tank has already been constructed in the subject lands, it is open for the petitioners to challenge the said eviction order, if aggrieved by the same.

With the above observation, the writ petition is disposed of. There shall be no order as to costs. As a sequel, miscellaneous petitions, pending, if any shall stand closed.

A.RAJASHEKER REDDY, J

19.06.2017
dv

