

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 14325 of 2005

ORDER:

1) The present writ petition came to be filed seeking issuance of writ of certiorari calling for the records relating to the order dated 07.11.2002 in D.Dis. (B1) 3585/ 2002 as endorsed in D.Dis.(B1) 2530/ 2005, dated 04.05.2005 by respondent No.2, and quash the same as illegal, irregular, contrary to the principles of natural justice and also contrary to the Board Standing Orders; consequently to direct the respondents not to dispossess the petitioner from the land admeasuring Ac.1.78 cents in Sy.No.368/ 4, Yenugondapalem Village and also to direct the respondent to assign the same on par with the other assignments, in the same survey number.

2) The petitioner herein claims to be in occupation of Ac.1.78 cents out of Ac.11.02 cents in Sy.No.368 of Yenugondapalem Revenue Village. She has been eking out her livelihood by doing cultivation in the said land. It is stated that after the death of her father-in-law M.Narasappa, a tomb was constructed in the said land and another tomb was also constructed in the memory of her grandson late Mallikarjuna. Since the petitioner has been in occupation of the said land for a long time, she made an application for assignment of the same. As the request of the petitioner was not considered, she filed W.P.No.9057 of 2005, before this Hon'ble Court. By an order, dated 21.04.2005, the

said writ petition was disposed of directing the respondents to decide the said application within a period of four weeks and till then to maintain *status quo* as regards nature and possession of the land. It is stated that though there was an order of status quo order, the request of the petitioner was rejected by the Joint Collector stating that the land in question is a kunta poramboke which cannot be assigned. Challenging the same, the present writ petition is filed.

3) Learned counsel for the petitioner mainly submits that the petitioner is a landless poor person and is eking out her livelihood by doing cultivation. He further submits that in spite of repeated requests for assignment of the land, no orders are passed by the respondent-authorities. He placed reliance on the photographs to show that she has constructed a small tomb in the said land and she being a landless poor person, will be put to irreparable loss if she is evicted from the said land.

4) The Government Pleader for Revenue submits that since the land is a tank poramboke, it is not possible to assign the same.

5) It is not in dispute that the land is a Kunta Poramboke. The claim of the petitioner is that she was issued a patta for the said land and because of which she is in possession of the land. Strangely neither the patta nor a copy of the same was filed. Government Pleader for Revenue submits that there is any amount of doubt with regard to the issuance of patta. It is pleaded that

even if such a patta was issued, the same has to be cancelled, since the said land is situated in a Kunta Poramboke.

6) A perusal of the material on record would further show that the respondents raised an objection stating that since the land is kunta poramboke, the same cannot be assigned to any person and the said land is required to be protected and hence the request of the petitioner cannot be considered. Learned counsel for the petitioner relies upon some certificates said to have been issued by the Village Administrative Officer to show that she is in possession of the same. It may be true that the said land is used by the villagers, but fact remains that it is a kunta poramboke, which needs to be protected. Merely because the tank is empty does not mean that one can occupy the same and raise structures thereon.

7) Having regard to the above and taking into consideration the facts and circumstances, the writ petition is disposed of directing the petitioner to make a fresh application for assignment of another land, to which she is otherwise entitled, in which event, the respondent-authorities shall consider the same and pass orders in accordance with law, as early as possible, preferably, within a period of two (02) months from the date of receipt of the application. If the petitioner is in possession of the said land, *status quo* as on today shall be maintained for a period of two (02) months.

8) Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

JUSTICE C. PRAVEEN KUMAR

04.09.2017
gkv

