

HON'BLE SRI JUSTICE S.V. BHATT

WRIT PETITION No.13276 of 2010

ORDER:

Heard learned counsel for the petitioner and the learned Assistant Government Pleader (Revenue) for respondents 1 and 2.

The petitioner prays for *mandamus* declaring the action of respondents in interfering with petitioner's possession of Ac.7.21 cents in R.S.No.342/1C of Mallavalli Village, Bapulapadu Mandal, Krishna District, without notice or initiating proceedings under law, as illegal, arbitrary and unconstitutional. The petitioner further prays for a declaration that the auction of petition land conducted on 24.05.2010 by 2nd and 3rd respondents, as illegal and unconstitutional.

The petitioner claims that she purchased the petition land through registered sale deed No.4637/2005 dated 07.12.2005 from M.Akkaiah Naidu. The vendor of the petitioner, it is averred purchased the petition land through registered document No.1489/2001 dated 14.05.2001. The petitioner relies on pattadar passbook issued in her favour for petition land and also the house tax paid to local Grampanchayat for the house in existence of the petition land. The prayer in the writ petition discloses the sufficient clarity, both the grievance and purpose of the writ petition.

For brevity, I do not propose to restate all the averments in the writ affidavit or documents relied by the petitioner. This

Court on 14.06.2010 directed the respondents not to interfere with the petitioner's possession and enjoyment of petition land.

The respondents filed a petition to vacate interim order and this Court on 18.10.2016, having regard to the objections raised by the respondents and perusing letter dated 31.10.2016 of Tahsildar, Bapulapadu, the writ petition is disposed of by this order.

Now the point for consideration is whether the interference by respondents with the possession and enjoyment of petitioner is in accordance with law and after following the procedure prescribed in this behalf.

The reply of respondents in the counter affidavit is that the petitioner by referring to R.S.No.342/1C of Mallavalli Village is in possession of land in R.S.No.11, which is classified as 'Adavi Poramboke'. The respondents further allege that notices under Land Encroachment Act have been issued and order directing removal of encroachment is also passed. Therefore, according to respondents no exception to their action can be taken.

The Assistant Government Pleader after perusing the record to the query of this Court whether a notice, as matter of fact is served on the petitioner, replies that it is served on the father of the petitioner Mr. B. Venkateswara Rao. He tried to canvass that alternate remedy is available to petitioner against the order of eviction passed. I am not proposing to get into this aspect arising between the parties. This Court in exercise of jurisdiction under Article 226 of Constitution of India cannot identify the possession and enjoyment of petitioner whether in R.S.No.342/1C or

R.S.No.11. The respondents, if have reason that the petitioner is either straying into neighbourhood or by getting title to some other survey number is in possession of Government land, the petitioner should be put on notice, opportunity afforded, orders passed, as are deemed fit in the circumstances of the case. This Court from the material on record is satisfied that the respondents are taking steps for removing encroachments in forest land. Such actions ought to satisfy the requirements of law. Hence, I am satisfied the writ petition can be disposed of by this order.

1. The respondents are directed not to interfere with the petitioner's possession in R.S.No.342/1C of Mallavalli Village, Bapulapadu Mandal, Krishna District except in accordance with law.

2. The respondents, if have reason to remove encroachments by either petitioner or any person in R.S.No.11, the steps are undertaken by following the procedure stipulated by law. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

S.V.BHATT, J

Date: 30.08.2017
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