

HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.21471 OF 2017

ORDER:

The petitioner prays for the following relief:

“..... this Hon'ble Court may be pleased to issue a writ of mandamus or any other appropriate writ or direction declare the action of the 4th respondent in engaging JCB Machine by making digging operations in schedule property of the petitioner in Sy.No.383 to an extent of Ac.192 cents of Borubhadra Village, Santhabommali Mandal, Srikakulam District without issuing any notice or due process of law as illegal, arbitrary and violation of principles of natural justice and consequently direct the respondents in not to interfere with the peaceful possession and enjoyment of the land of the petitioner by restoring the schedule property in its original position and pass.....”

On 30.06.2017, this Court after hearing learned counsel for the petitioner and perusing the annexures filed along with the writ petition directed the writ petition to be listed on 03.07.2017 under adjourned motion list and passed the following order:

“After perusing the photographs filed as annexure P-2, the court considers it appropriate to restrain the respondents from in any way further changing the physical features in the interregnum.

The Assistant Government Pleader is directed to communicate the order to R2 to R4 forthwith.”

The 4th respondent filed counter-affidavit. The gist of the counter affidavit reads as follows:

The 4th respondent denies the allegation of petitioner that 4th respondent issued D-form Patta in her name and that she is in exclusive possession and enjoyment of the land in Sy.No.383 in an extent of Ac.1-92 Cts of Borubhadra Village and that the

4th respondent is trying to dispossess the petitioner from the subject matter of the writ petition. The 4th respondent contends that Sy.No.383 in Borubhadra Village of Santhabommali Mandal is not in existence. It is stated that the petitioner encroached Ac.0-50 Cts of land in Sy.No.241 of Banjeeru Tank Bed of Borubhadra Village by raising paddy and as such notices under Sections 7 and 6 of the Land Encroachment Act, 1905 were issued to her.

I have heard the counsel and perused the affidavit and counter affidavit. Having regard to the nature of controversy on the identity or existence of Sy.No.383, the writ petition can be disposed of by this order.

As there is dispute on the identity, existence of Sy.No.383 and also the assignment in favour of petitioner, this Court is not exercising its jurisdiction. Since the petitioner is relying upon assignment, the petitioner is given liberty to represent to the Revenue Divisional Officer for enquiry into this matter and protect her interest, if the assignment is valid and legal.

By granting liberty as above, the writ petition is disposed of. The respondents are free to proceed with the work in Sy.No.241 of Banjeeru Tank Bed of Borubhadra Village. There shall no order as to costs.

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

S.V.BHATT, J

19th July, 2017
Lrk m