

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.28128 of 2011

ORDER :

This Writ Petition has been filed by petitioner challenging the proceedings dt.13.05.2011 of the District Collector, Chittoor and proceedings dt.02.04.2011 of the Revenue Divisional Officer, Madanapalle, addressed to the District Collector, Chittoor, rejecting petitioner's request to implement the *ryotwari patta* granted to petitioner's father for an extent of Acs.1.87 cents in Survey No.296/2 of Ethnur Village of Ponganur Revenue Mandal, Chittoor District.

2. The counsel for petitioner contends that petitioner's father, one late G. Munivenkatappa, had applied for a *patta* under Section 11(a) of the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 (**for short, 'the Act'**) before the Assistant Settlement Officer, Chittoor; that in proceedings S.R.No.133/11(a)/65-PGN dt.31.07.1965 *patta* was granted to petitioner's father after an enquiry; that the said order had attained finality; that he submitted a grievance petition in the cell established by the District Collector, Chittoor in the year 2010, seeking implementation of the order dt.31.07.1965 of the Assistant Settlement Officer, Chittoor under Section 11(a) of the Act; that the same was referred to the Tahsildar, Ponganur, who submitted a report corroborating petitioner's contention that petitioner's father was given

ryotwari patta for the said land; that the said report of the Tahsildar was forwarded to the Revenue Divisional Officer, Madanapalle; that the latter took note of the fact that the land for which the petitioner is possessing *ryotwari patta* was situated in Ponganur Municipal limits and adjoining to the main road, and would be required for future needs of the Government and for public purpose; and on the basis of the said report of the Revenue Divisional Officer, the 1st respondent rejected the request of the petitioner stating that the land is classified as 'Assessed Waste Dry' (A.W.D.).

3. The counsel for petitioner further contended that once the order passed under Section 11(a) of the Act on 31.07.1965, granting *ryotwari patta* to petitioner's father had attained finality, it is not open to respondents to refuse to implement the same in the village records on the ground that it is falling within the Ponganur Municipal limits and would serve the future needs of the Government and other public purpose.

4. I find considerable force in the submission.

5. The Writ Petition had been filed in the year 2011 and till date in spite of several opportunities being given to respondents, no counter-affidavit has been filed.

6. In fact, before this Court, on 09.02.2017, two weeks time has been granted for filing a counter. The matter was listed then on 07.03.2017, when a further time of two weeks was granted. Again, it

was listed on 21.03.2017 when it was recorded that as a last chance, two weeks time was being granted.

7. After that, the matter is listed to-day but no counter-affidavit is filed by the respondents.

8. Though the learned Government Pleader for Revenue, appearing for respondents, again made a request for time for filing counter-affidavit, in view of the fact that ample time had been granted, the request of the learned Government Pleader for Revenue is rejected. More particularly, because the petitioner has become a Senior Citizen by now, and it was felt that it was unjust on the part of respondents to continue to delay the disposal of the Writ Petition because of their negligence in filing a counter-affidavit.

9. As rightly contended by the counsel for petitioner, since the *patta* granted to petitioner's father on 31.07.1965 under Section 11(a) of the Act has attained finality and the factum of such grant of *patta* to petitioner's father is confirmed by the 3rd respondent in his report dt.05.01.2011, merely on the ground that the land is useful for public purpose of the Government or because it was situated within Ponganur Municipal limits, the respondent nos.1 and 2 cannot classify it as 'Assessed Waste Dry' (A.W.D.), and on that ground refuse to implement the *patta* in the Revenue Records.

10. This is clearly arbitrary, illegal and violative of Articles 14 and 300-A of the Constitution of India.

11. Accordingly, the Writ Petition is allowed and the proceedings dt.02.04.2011 in L.Dis/B3/257/2011 of the 2nd respondent as well as proceedings dt.13.05.2011 in L.Dis.(F3)/2143/87 of the District Collector, Chittoor are both set aside; and a direction is issued to the respondents to make corrections as regarding classification of the subject land in accordance with the orders passed by the Assistant Settlement Officer on 31.07.1965 granting *ryotwari patta* to petitioner's father under the provisions of the Act.

12. This exercise shall be completed by the 3rd respondent within a period of eight (08) weeks from the date of receipt of a copy of this order. No order as to costs.

13. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 04-04-2017

Ndr/*