

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.24068 of 2004

ORDER

Heard learned counsel appearing for the petitioners and learned Government Pleader for Revenue appearing on behalf of respondents 1 to 3 and Sri P.Harinath Gupta, learned counsel appearing on behalf of the 4th respondent.

This writ petition is filed seeking a direction to respondents not to interfere with peaceful possession and enjoyment of the land in an extent of Ac.5.32 cents in Sy.No.43/1 of Bakkannapalem Village, Chinnagadila Mandal, Visakhapatnam District.

The case of the petitioners is that their father was an ex-service man and in recognition of his services, he was assigned Ac.5.32 cents in Sy.No.43/1 of Bakkannapalem Village, Chinnagadila Mandal, Visakhapatnam District, in the year 1967. Thereafter, he died on 20.03.91. The petitioners' mother also expired on 08.07.1999 leaving the petitioners as the legal heirs. The petitioners' father name was entered in the revenue records and the certified copy of Adangal dated 14.01.2004 also shows his possession. They also state that some third party along with an application approached the Joint Collector-cum-Settlement Officer under Section 11 (a) of

Inams Abolition Act, for issuance of patta in respect of the same land and also some other lands belonging to the family of Sambarika Appa Rao. The said application was rejected by the Joint collector-cum-Settlement Officer, Appellate Authority and the Revisional Authority. The petitioners state that no such application was preferred by their father. When they came to know that the District Collector sent proposals for alienating Ac.7.32 cents of land including the land in their possession at request of the 4th respondent, the present writ petition was filed seeking a direction to the respondents not to interfere with their possession and enjoyment over the land in question.

This Court by order dated 4.1.2006 directed the parties to maintain *status quo* as on that date with regard to possession. The said order was made absolute on 11.11.2011.

The 3rd respondent filed counter-affidavit stating that Bakkannapalem Village of Visakhapatnam Rural Mandal is one of the village of erstwhile Vizianagaram Estate and it was taken over by the Government on 7.9.1949 under the provisions of Estates Abolition Act, 1948 (for short 'the Act'). During the year 1987, three individuals filed applications under Section 11 (a) of the Act in respect of the lands covered by R.S.No.43/1, 43/2 and 43/3 of the said village before the

Settlement Officer & Joint Collector, Visakhapatnam, who, *vide* common order dated 16.7.1995 dismissed the claims of the petitioners. Aggrieved by the same, the petitioners filed a revision petition before the Director of Settlements, A.P., Hyderabad and the same was rejected on the ground of limitation *vide* order dated 16.12.1997. Challenging the said order, the petitioners filed a revision petition before the Commissioner of Appeals and the same was also rejected on 22.11.2001. The land in Sy.No.43 of Bakkannapalem Village is a Government land and its total extent is Ac.20.90 cents. Six individuals were given various extents of land in 1961 and the father of the petitioners was given Ac.5.32 cents located in Sy.No.43/1 under D.Form Patta No.213. Since the assignees have not brought the land under cultivation within the stipulated period, the then Mandal Revenue Officer, Visakhapatnam Rural has issued show cause notice dated 30.08.2000 and made substitute service in the presence of village elders, due to non-availability of assignees. The assignment of the lands was cancelled *vide* proceedings dated 15.09.2000 of the then Mandal Revenue Officer, Visakhapatnam (Rural) and the Government resumed the possession of the assigned lands.

The 4th respondent filed a separate counter-affidavit stating that father of the petitioners was assigned the land under dispute and after his death, the petitioners have appointed one Majji Adinarayana as their G.P.A for executing sale deeds on 18.05.1994. The said GPA executed four sale deeds on various dates. The said vendees applied for mutation in revenue records and for pattadar pass books. The Mandal Revenue Officer, Visakhapatnam, vide proceedings dated 18.4.1999 ordered to incorporate the names of vendees. Accordingly, mutation was effected and pattadar pass books and title deeds were issued in their favour under S.No.320599. The vendees are running educational institutions in the land purchased by them.

The above facts disclose that the land in an extent of Ac.20.90 cents situated in Sy.No.43/1 of Bakkannapalem Village, was originally an erstwhile Vizianagaram Estate, which was taken over by the Government on 7.9.1949. The efforts made by three individuals including the father of the petitioners to obtain settlement patta failed. However, six individuals were given various extents of lands in the said survey number and separate sub division numbers were allotted after assignment to them in the year 1961. Since it was noticed that the individuals have not brought the land under

cultivation, the assignment was cancelled on 15.09.2000. By that time, the 4th respondent purchased the land and his name was entered in the original records. Though the original assignee was not available, appropriate notices would have been given to the legal heirs of the original assignee/purchasers of the land/4th respondent. There is no evidence to show that the said notices were issued to the petitioners or to the 4th respondent.

In the circumstances, it cannot be held that the proceedings for cancellation of assignment on 15.9.2000 was valid in law.

Accordingly, the Writ Petition is allowed. However, liberty is given to the 3rd respondent to issue appropriate notices to the petitioners and the 4th respondent, if the 3rd respondent desires to take any action for cancellation of the assignments made in favour of the father of the petitioners. Till such time, the persons in possession of the land shall not be disturbed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE A.RAMALINGESWARA RAO

6th June, 2017
rkk