

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION NO.10341 of 2008

ORDER :

Sri R.V.Chalapathi, who filed the writ petition, died and the name of his junior, who signed the vakalat, was printed in the cause list. On 03.08.2017, Smt.C.Jhansi Pani, made a representation that she has no instructions to represent the case and hence registry was directed to send notices to the petitioners. Accordingly, notices were sent but some of them were returned, unserved. Further, a perusal of the docket proceedings would show that no interim orders were passed at any point of time.

2. The present writ petition came to be filed seeking issuance of writ of mandamus declaring the proceedings of the second respondent in Roc.No.B/ 406/ 07, dated 14.03.2007 in respect of land admeasuring Ac.1.33 cents situated in Survey No.206/ 1 of Thimmi Naidupalem Village, Tirupati Urban Mandal, Chittoor District, as illegal and arbitrary.

3. The averments in the writ affidavit would show that the petitioners have purchased the plots covered by TUDA approved lay out by way of registered sale deeds and they were all in possession and enjoyment of the plots situated in the land admeasuring Ac.1.33 cents situated in Survey No.206/ 1 of Thimmi Naidupalem Village, Tirupati Urban Mandal, Chittoor District. While things stood thus, the second respondent communicated a list of assigned lands (including land of the petitioners), to the third respondent and also to the Sub Registrar, in respect of which registration of sales or other conveyance were prohibited under Section 5(1) of the A.P.Assigned Lands (Prohibition of Transfer) Act, 1977. When the

petitioners asked the second respondent to delete their lands from the list of assigned lands, he refused the same on the ground that the first respondent instructed him to do so stating that their lands are assigned lands. While narrating the entire transactions that took place with regard to the lands in dispute, the petitioners claim their rights over the lands. Further, it is stated that the MRO, Tirupati Urban Mandal, in his proceedings dated 06.07.1996, issued patta land Certificate, stating that the land in Survey No.206/ 1 admeasuring Ac.1.33 cents is covered by Patta No.188 of Smt.Ramichetti Chinnamma and Survey No.206/ 2 admeasuring Ac.1.50 cents is covered by patta No.188 of Smt.N.Lakshmi Devi; that the said lands are classified as patta lands and registered the same in their names as per village accounts of Thimmi Naidupalem Village, Tirupati Urban Mandal. Hence, the petitioners claim the lands to be patta lands and not assigned lands. It is the case of the petitioners that the revenue authorities have no right to direct the registering authority to register or entertain any sale deed in respect of any land. However, as per Section 5 of A.P.Assigned Lands (Prohibition of Transfer) Act, the District Collector is the competent authority to prepare a list of assigned lands and furnish the same to the registering officers. It is stated that in the present case, the subject land is admittedly a patta land, granted by Settlement Officer; that there were number of transactions that took place and the said land was transferred in the name of many persons and now it has been covered under TUDA approved layout, wherein number of constructions also took place. The grievance of the petitioners is that the respondents are harassing the petitioners by not allowing any registrations on the ground that the said lands are assigned lands. Hence, the present writ petition came to be filed.

4. A counter came to be filed disputing the averments made in the writ affidavit. It is stated that the land in Survey No.206/ 1, admeasuring Acs.2.83 cents, situated at Timminaidupalem Village, Tirupati Urban Mandal, Chittoor District, is classified as 'Kunta Poramboke land' and the land admeasuring Acs.1.33 cents was assigned in favour of landless poor in the year 1976. It is stated that the petitioners have purchased the land by violating the provisions of A.P. Assigned (Prohibition of Transfers) Act, 1977. It is stated that the notice under Rule 3 of the Rules was issued to the original assignee on 14.04.2008. But it was found that the original assignee was not in the village as per the endorsement given by the Village Revenue Officer, Timmanaidupalem. Since the documents which were submitted by the petitioners were alleged to be forged and fabricated, the second respondent communicated the same, in terms of Rule-4 of the Rules and also the entries made by in the revenue records with regard to the land in question. Pursuant thereto, the interim proceedings came to be issued. Further, the averments in the counter filed by the first respondent would clearly show that the Thimmanaidupalem village is ryotwari village and the settlement was in the year 1916 by the then Special Settlement Officer; the land in Survey No.206 admeasuring Acs.2.83 cents was classified as Kunta Poramoke and prohibited from grant of patta under Section 3(b) of Estate Abolition Act; the Settlement Officer, Nellore cannot interfere with the ryotwari village settled in the year 1916; the purported S.R.File No.137/ 11(a)/ 1968 is bogus and fabricated and the land in question is free from encroachment even today.

5. From the above averments, it is clear that there are two versions with regard to land in question – 1) the petitioners claim the land to be a

patta land and 2) that it is Kunta poramboke land and part of the land was already assigned to the land less poor persons. It is further stated that as the documents are forged, the Sub-Registrar was justified in cancelling the same.

6. At this stage, learned Government Pleader would submit that in view of the Full Bench judgment of this Court in *Vinjamuri Rajagopala Chary Vs. State of Andhra Pradesh*¹, the petitioners can avail the remedies available under law.

7. Having regard to the above submissions made and since the issue involves disputed questions of fact, the request of the petitioners cannot be accepted. Accordingly, the writ petition is dismissed. However, the petitioners are at liberty to avail the remedies available under law, if any, in view of the Full Bench judgment of this Court in *Vinjamuri Rajagopala Chary Vs. State of Andhra Pradesh*. No costs.

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

JUSTICE C. PRAVEEN KUMAR

31.08.2017
vhb

¹ 2016 (1) ALT 550 (DB)