

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

W.P.No.21705 OF 2005

ORDER:

As there was no representation on behalf of the petitioner on 20.04.2016, the matter was directed to be listed on 21.04.2016 under the caption for dismissal. Even today, though the matter is listed under the caption for dismissal, there is no representation on behalf of the petitioner.

The present writ petition came to be filed seeking issuance of Writ of Mandamus declaring the action of respondents 3 and 4 in interfering with the possession and enjoyment of the petitioner's land admeasuring Ac.1.44 cents in Survey No.166/2 of Lankalapalem Village, Parawada Mandal, Visakhapatnam District, as illegal and arbitrary.

The averments made in the affidavit filed in support of the petition are that the petitioner claims to be the owner of dry land admeasuring Ac.02.52 cents in Survey No.166/1 of Lankalapalem Village of Parawada Mandal. It is stated that the petitioner is in occupation of the land since last five years and has developed the land by filling pits along with the adjoining poramboke land and also claims to have constructed a wall. The petitioner made a representation to the Government on 06.08.2005, seeking regularization of his occupation in the Government land, admeasuring Ac.01.44 cents in Survey No.166/2 at Lankalapalem on payment of reasonable market value. It is further stated that while his representation for regularization is pending consideration, respondents 3 and 4 started interfering with the land in occupation of the petitioner.

A counter came to be filed, disputing the averments made in the affidavit filed in support of the writ petition. Though the representation of the petitioner was pending as on the date of filing the writ petition, the counter filed by the respondents says that the Collector vide proceedings dated 08.09.2005, directed the 3rd respondent to take steps to evict the encroacher immediately, since the affidavit filed by the petitioner itself

speaks that he unauthorisedly occupied the land in question. It is stated that the petitioner is in possession of the land since last five years and that he had developed the same by filling up the pits by spending huge amounts are false. It is also stated that the said land was assigned to Achanta Chiranjeevi Rao with specific direction that the assignee shall not use the said land for non agricultural purpose and the assignee is cultivating the land. In para 8 of the counter, it is the interference of respondents 3 and 4 with the land of the petitioner and dispossessing him from the land is denied. It is further stated that as the petitioner is not in possession of the land, the question of dispossessing him would not arise, more so, in view of the report of the District Collector, directing the 3rd respondent –MRO to take action against the encroacher. Having regard to the above, this Court is of the view that the relief, which the petitioner, sought for, cannot be accepted and hence, the writ petition is liable to be dismissed.

Accordingly, the writ petition is dismissed. It is needless to state that in case the petitioner is in possession of the property in dispute as on today, the respondent authorities shall take necessary steps in accordance with law to evict him.

Miscellaneous petitions pending in this writ petition, if any, shall stand closed. No costs.

JUSTICE C. PRAVEEN KUMAR

17.08.2017
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