

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.15164 OF 2005

ORDER:

No representation on behalf of the petitioners. Heard the learned Government Pleader for Revenue for the State of Andhra Pradesh.

2. The present Writ Petition, under Article 226 of the Constitution of India, came to be filed with the following prayer:

“..to issue a Writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents in attempting to dispossess the petitioners from their lands in Survey Nos.296/9, 296/8, 296/7, 296/11 and 296/12 respectively of Madhurawada village Chinagadili Mandal, Visakhapatnam District, in a extent of Ac.2.00 each but Ac.2.10 cents of the 2nd petitioner on 11.07.2005 and threatening to do so by police force on any day without acquiring the said land if required for any public purpose under the Land Acquisition Act by following due process of law as illegal, arbitrary, capricious and violative of Article 300-A of Constitution of India and consequently to direct the respondents not to dispossess them except under due process of law.”

3. The averments made in the affidavit filed in support of the writ petition would show that the Tahsildar, Visakhapatnam, assigned land admeasuring Ac.2.00 cents each to the petitioners except 10 cents more to the 2nd petitioner in the aforestated survey numbers, as they belong to backward community and landless poor people. Accordingly D.Form pattas were also granted. Since then, they have been cultivating the said land and earning livelihood. While the matter stood thus, due to recent price escalation in the locality, respondents are trying to dispossess the petitioners from the subject land without following due process of law and without issuing any notice. Hence the present petition.

4. A Counter came to be filed disputing the averments made in the writ petition. It is submitted that much prior to filing of the present writ petition, the petitioners herein have filed Writ Petition No.10788 of 1998 questioning the cancellation of assignment, which was made on the ground that the petitioners failed to bring the land under cultivation within the stipulated time and thereby violated the conditions of assignment by the assignees. The said cancellation was done on 23.02.1990 after issuing notices and the lands were also resumed by the Government along with other assigned lands in Sy.No.296. A detailed counter was filed by the then Mandal Revenue Officer, Visakhapatnam Rural in the above writ petition. After hearing the matter at length, the said writ petition was dismissed on 20.04.1998. Challenging the same, the petitioners filed writ appeal and the same was also disposed of. It is further stated that subsequent thereto, the entire land in Sy.No.296 was sub-divided and new sub-divisions were created and allotted/alienated to others. Such being the position, the request of the petitioners that the respondents are trying to dispossess them from the subject land without following due process of law cannot be accepted. Hence, prayed to dismiss the present writ petition.

5. On 03.10.2005 this Court granted *status quo* with regard to the nature of possession existing as on the said date in respect of the land in dispute, until 17.10.2005. It appears that there was no extension of said interim order later.

6. As seen from the record, Writ Petition No.10788 of 1998 as well as the appeal were dismissed. Though the petitioners approached this Court earlier by filing several writ petitions, the said fact is suppressed. Without

referring to the same, petitioners are now questioning the action of the respondents in trying to dispossess the petitioners without following due process of law.

7. In view of the above, it is difficult to accept the pleadings of the petitioners that they are still in possession of the land and the respondents are trying to dispossess them without following due process of law. Hence the relief claimed cannot be granted.

8. Accordingly, the Writ Petition is dismissed.

Consequently, Miscellaneous Petitions, if any, pending in this writ petition shall stand closed. No order as to costs.

Date:03.08.2017
INL

JUSTICE C. PRAVEEN KUMAR

