

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.5462 of 2008

ORDER:

Heard the learned Counsel for the petitioners and the learned Government Pleader.

The petitioners state that the land of an extent of Acs.3.73 cents situated in Survey No.290 of Devapatla Village Fields, Devapatla Gram Panchayat, Sambepalle Mandal, Kadapa District, originally belongs to one Sri Kalicherla Khasim Sab. After his demise his three sons got divided the land equally and enjoyed the same. The petitioners claim to have purchased the following extents of land under separate sale deeds.

Sl.No.	Name of the petitioner	Extent of land purchased	Date of Sale Deed
1.	Palempalle Venkatramana Reddy	Acs.0.63 cents Acs.0.05 cents Acs.0.04 cents	24.03.2007
2.	Reddimalla Ramanadha Reddy	Acs.0.18 cents	24.03.2007
3.	Eraganeni Vijaya Kumari	Acs.0.18 cents	24.03.2007
4.	Shaik Jeharun	Acs.1.25 cents (acquired through inheritance from late Khasim Sab)	
5.	Reddimalla Gangi Reddy	Acs.1.24 cents	15.02.2001
6.	Reddimalla Lakshmi Devi	Acs.0.41 1/3 cents	20.06.2001

The petitioners claim that they have been in peaceful possession and enjoyment of land since the date of purchase. The land was adjacent to Devapatla Village, which was useful for house sites. When the petitioners claimed to have raised construction, the third respondent visited the land on

08.03.2008 and raised objection stating that the said land was taken possession for the purpose of construction of houses to weaker sections under Indiramma Housing Scheme. According to the petitioners, no notice was issued to them for taking over the land and the petitioners continued to be the owners of the land.

A counter affidavit is filed on behalf of the respondents stating that the land in Survey No.290 in an extent of Acs.3.73 cents is a Government assessed waste land and was assigned to a landless poor person by name Shaik Khasim Sab. Hence, the said land cannot be sold to the petitioners. The said Khasim Sab and his wife died long back. The encumbrance certificate obtained from the office of the Sub Registrar shows that the said land was initially sold to one Redimalla Nagireddy vide registered document dated 27.01.1966 and he sold the land to one Kalicherla Reddy Sab vide document dated 21.05.1969. Since the transactions took place in respect of Government land, notices were issued to the assignees and purchasers respectively directing them to show cause as to why the land should not be resumed to the Government for violation of the provisions of Act 9 of 1977. Since the original assignee and his wife died long back and the whereabouts of the purchasers were not known, notices were affixed to a stock erected in the land and the land was resumed by the Government on 24.09.2007. The petitioners never occupied the land and it is not under their possession. There is no need for following the procedure

envisaged under the provisions of the Land Acquisition Act since the land is a Government land. Notices were issued to the original assignee on 01.09.2007 as well as to the first purchaser from the original assignee on 17.09.2007, but none of them offered their explanation. In those circumstances only resumption orders were passed on 24.09.2007 based on the material available.

A reply was filed by the petitioners denying the averments made in the counter affidavit. The petitioners state that they submitted an application under the Right to Information Act asking the respondents to furnish the documents in order to enable them to file appropriate reply and in spite of receipt of the said application on 12.05.2008, no information was furnished to the petitioners. It is also stated that after the death of the original assignee, his children were in possession of the land and in fact the fourth petitioner was enjoying the land as a successor to the property. The petitioners claim that they are having valid registered deeds coupled with pattadar pass books and title deeds issued by respondent Nos.2 and 3, who recognised their possession.

In view of the above averments, it is clear that the third respondent is claiming the land owned and possessed by the petitioners as a Government land on the ground that it was originally assigned to one Khasim Sab, who sold it to another purchaser way back in 1966. But, the fact remains that the

purchase of the land by the petitioners was recognized by respondent Nos.2 and 3 and pattadar pass books and title deeds were issued to the petitioners. This clearly shows that the petitioners are in possession of the land. The petitioners claim to have purchased the land on 24.03.2007 and on other dates as mentioned above. But, the notices alleged to have been sent were not received by the original assignee or the original purchaser. The land is claimed to have been resumed on 24.09.2007, which could not have been done when the petitioners are in possession by virtue of the registered sale deeds. In any event, the land was not resumed from the petitioners. In the circumstances, it has to be assumed that the petitioners continued to be in possession of the land. But, in view of the dispute with regard to the title, since the third respondent is claiming that the purchase is in violation of the provisions of Act 9 of 1977, it is incumbent upon the third respondent, if he wants to resume the land, to take appropriate proceedings under the provisions of the said enactment. It is also relevant to notice that there was no response from the third respondent to the notice issued by the petitioners seeking information under the Right to Information Act.

In the circumstances, the Writ Petition is allowed by setting aside the resumption of the land alleged to have been done on 24.09.2007 and if the third respondent wants to take up any proceedings, he shall furnish the required information as sought by the petitioners under the Right to Information Act,

issue a notice calling for their explanation and after receiving the explanation, pass appropriate orders in accordance with law. Till passing of such orders, the possession of the petitioners shall not be interfered with. The miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. There shall be no order as to costs.

08.06.2017
vs

(A.RAMALINGESWARA RAO, J)

