

HON'BLE SRI JUSTICE S.V.BHATT

W.P.No.32193 OF 2013

ORDER:

Heard Mr.M.Radha Krishna for petitioner and the learned Assistant Government Pleader for respondents.

The petitioner prays for Mandamus declaring the action of 2nd respondent in demolishing the houses raised by the members of petitioner Sangam in Sy.No.271 of Sabbavaram Village in terms of house site pattas granted to them, as illegal, arbitrary and unconstitutional.

Sri Durgamamba Kalakarula Samkshema Seva Sangam is petitioner. The petitioner is a society registered under the Societies Registration Act with Registration No.851 of 1996. The members of petitioner Sangam applied for house site plots before the 1st and 2nd respondents. The undisputed and admitted fact is that the 2nd respondent after enquiring the eligibility and the desirability granted house site pattas in favour of members of petitioner Sangam. The pattas granted to members of petitioner Sangam are filed as Annexure A-4. Now, the grievance of petitioner is that the respondents without recourse to law and for unavailable reasons either are demolishing the structures raised by them or threatening to dispossess the members from the respective plots. The apprehension expressed by members of petitioner Sangam is supported by the counter affidavit of 2nd respondent, for the 2nd respondent states that the assignees failed to construct the houses within the time stipulated by the grant. Therefore, the house plots stood vested in the Government. This Court finds it necessary to excerpt the stand taken in the counter affidavit, both on the

cause of action for filing the writ petition and the understanding of
2nd respondent.

“It is submitted that the Sy.No.271 of Sabbavaram Village is classified as “Gedda Varakalu” (Government land) measuring an extent of Ac.88.20 Cts which is an objectionable poramboke. The land which is claimed to be the “Kalakarula Colony” falls under Sy.No.271/5 of Sabbavarm Village. Since the land is a Government land, in the year 1997, house site pattas were said to be issued to 67 beneficiaries (artists). But no records were found in this office regarding issue of house site pattas. The house site pattas produced by the petitioners are with a clause that they have to construct the houses within one year. But they have failed to construct houses in the sites allotted to them. Hence, the validity of the pattas has been lapsed and the beneficiaries have no right on the land and the land vests with Government. No one has tried to construct houses in the sites allotted to them as it is a fact that the pattas supposed to be granted to them have no legality. Any construction in the said land will be treated as encroachment as the land vests with Government. Even if someone tried to construct houses, the same were stopped till 12.08.2013 by this office staff as they have violated the clause to construct houses within one year.

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In reply to para 5 of the affidavit, it is submitted that the petitioner’s claim is that house site pattas were issued to them in the year 1997 with a clause to construct houses within one year. But they have failed to construct houses in the sites allotted to them. Hence, the validity of the pattas has been lapsed and the beneficiaries have no right on the land and the land vests with Government. No one has tried to construct houses in the sites allotted to them as it is a fact that the pattas granted to them have no legality. Any construction in the said land will be treated as encroachment as the land vests with Government. Even if someone tried to construct houses, the same were stopped till 12.08.2013 by this office staff as they have

violated the clause in the pattas issued to them that to construct the houses within one year. It is further submitted that the members of the petitioner society have stated that “because of impecunious condition, construction activities is proceeding at snail’s pace” is completely false as the construction activities during the APNGOs strike period (i.e., from 13.08.2013 to 17.10.2013) were jet speed, this clearly indicates the petitioners malafide intention that there are no one to keep a vigil on the Government land they have started constructing 62 houses in Sy.No.271/5 of Sabbavaram village”.

It is not the case of 2nd respondent that for not complying with the condition of constructing the houses within one year, the assignment of house site pattas has been cancelled. The non-complying with the condition at best gives a cause of action for proceeding to enquire into the matter, but cannot be understood as vesting the property again with the Government.

For the above reasons, I am satisfied that petitioner has made out *prima facie* case and the writ petition is ordered as follows:

“The respondents are directed not to dispossess the members of petitioner Sangam or demolish the structures in the house plots allotted to each member, except in accordance with law.

It is made clear that the observations shall not be understood as enabling circumstance to initiate action forthwith.

There shall be no order as to costs”.

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

S.V.BHATT,J

15th June, 2017
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