

THE HON' BLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No.2560 of 2008

ORDER:

Heard.

The present Writ Petition came to be filed seeking issuance of writ of Mandamus declaring the action of the respondents in not granting possession, in respect of patta certificates bearing No.B8/ 7319/ 82-M/ 1256/ 83, dated 01.10.1997, issued to the members of the petitioner-association, in Survey Nos.229, 237 of Gollaguda area, Nalgonda Town, as illegal and arbitrary.

The averments in the affidavit filed in support of the writ petition would show that the members of the petitioner-association are land less persons, who are all artisans, rikshaw pullers, auto drivers, etc. having no shelter. It is stated that the land in Survey Nos.229 and 237 is a Government land. The members of the petitioner-association along with some others made a representation in the year 1996, to the authorities for grant of house pattas to construct houses. The Government has drawn a Scheme, seeking allotment of plots comprising of 100 square yards each to the landless persons, who have undergone family planning operation. Thereafter, the first respondent directed respondent Nos.2, 3 and other officials concerned, to prepare a list of beneficiaries, pursuant to which an enquiry was conducted. Subsequently, respondent No.3 took over the possession of the land, prepared a lay-out and patta certificates in respect of the said plot vide file No.B8/ 7319/ 82-M/ 1256/ 83, dated 01.01.1997 were issued to the beneficiaries including the petitioners. It is stated that though pattas were granted, respondents failed to handover the possession, hence the petitioner-association filed a representation through one Smt.Vasam Thulasamma, to the Grievance Cell of respondent No.1, which was sent to

respondent No.3, who in turn addressed a letter dated 27.05.2003, stating that layout plans are being prepared and on receiving the assent from respondent No.2, pattas would be distributed. As there was no action from the respondents, the present writ petition came to be filed.

By an order dated 11.02.2008, this Court, while issuing notice before admission passed the following order:

“Learned Government Pleader takes notice and offers to file counter and instructions within a week.

It is the case of the petitioners' association that its members have been allotted the house site pattas vide proceedings file No.W/ 1256/ 83.D/ 10511/ 97, dated 01.01.1997 allotting house sites of an area of 100 square yards each in Survey Nos.229 and 237 situated at Gollaguda village, Nalgonda District.

Though the house site pattas have been issued, the actual plots have not been allotted. Accordingly, a representation has been made on 30.06.2007 to the District Collector, Nalgonda and the Mandal Revenue Officer, Nalgonda also submitted a report in Lr.No.D/ 4361/ 03, dated 27.05.2003, stating that the list of allotment of house sites of eligible persons is prepared including lay out and the patta certificates were also prepared and they will be handed over as and when the R.D.O., Nalgonda approves the same.

Communicate these proceedings to the respondents.”

On 22.04.2009, this Court directed the respondents to forthwith, at any rate within seven days from the date of receipt of a copy of this order, jointly and severally put the members of the petitioners' association in possession of the pattas granted to them, without fail and the first respondent was directed to file compliance report by 02.06.2009 by a sworn affidavit. Further, on 04.06.2009, this Court observed as under:

“No counter affidavit is filed despite notice before admission having been ordered on 11.02.2008. Exasperated with the non-response by State, this Court eventually admitted the Writ Petition on 22.04.2009 and passed interim order directing the respondents to put the members of the petitioners' society in possession of the land granted to them by way of pattas. The learned counsel for

the petitioners submit that the petitioners are not put in possession of the lands. If that be so, the appropriate remedy is under Contempt of Courts Act, 1971.

List the writ petition for final hearing in usual course.”

In spite of the above interim orders passed by this Court, there is no compliance of the same by the respondents. However, counter affidavit came to be filed in the month of June, 2009, disputing the averments made in the writ petition. It is the case of the respondents that patta certificates which are placed on record, are fake and that the copies of patta certificates produced by the petitioners' association reveal that the nature of the land was shown as Government land ceiling. Infact the land in Survey Nos.229 and 237 was an acquired land but not a Government land or a ceiling land. It is further stated that as plot numbers which are mentioned in the list are not in existence the patta certificates are forged. Reiterating the averments made by the learned Government Pleader, learned counsel for the respondents submits that the petitioners are not entitled for the relief claimed.

At the first instance, it is to be noted that when the said certificates given by MRO to the beneficiaries are fake, it is strange as to how no action has been initiated against the MRO or the one who produced those certificates. Mere denial of the same by way of counter will not substantiate their plea. If really those certificates are forged and fabricated, definitely the authorities should have lodged a report before the police against the persons who sought to take benefit from those certificates. It is to be noted that one Smt.Vasam Thulasamma gave a complaint in grievance cell, which lead to issuance of the letter dated 27.05.2003, and the same is not seriously disputed by the learned Government Pleader. A reading of the said letter clearly shows that as per the requisition of the petitioners of Ram Nagar, a list containing eligible

persons came to be prepared. A layout is being prepared for allotment of house plots, for the members of Ram Nagar area. It is also clearly stated that as soon as approval of the RDO is received, patta certificates would be distributed to the eligible persons. From the contents of the letter, it is clear that list of eligible persons was prepared and lay out was being prepared for the allotment of house plots to the members of Ram Nagar area. But, however, there appears to be a doubt as to why the respondent-authorities have not taken any action against the MRO or the concerned officials, if really the patta certificates stated to have issued to the members of the petitioners are forged and fabricated.

Having regard to the above circumstances and since the letter of the Tahsildar is not disputed by both the parties, the respondents shall either allot the plots as per the letter of MRO or provide alternate plots to the members of the petitioner-association, at the earliest, in accordance with law.

Accordingly, the writ petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions, pending if any, shall stand closed in the light of this final order.

JUSTICE C. PRAVEEN KUMAR

16.02.2017
vnb