

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.5603 OF 2006

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed seeking to declare the action of the respondents in not considering the claim of the petitioners dated 23.01.2006 for restoration of 'D' Form Pattas in proceedings dated 14.08.1987, as illegal and sought for consequential direction to the respondents to restore the 'D' Form Pattas in favour of the petitioners in respect of the land covered in Rs.Nos.86 to 90 in an extent of Acs.2-50 cents each in favour of the petitioners.

2. The case of the petitioners is that they belong to fishermen community residing at Neellarevu Village H/o.Brahmasamajyam and are eking out their livelihood by catching fishes. They occupied government poramboke land in Neellarevu (V), applied for allotment of 'D' Form Pattas under 'landless poor persons' category in the year 1984. The pattas were granted in favour of the petitioners to an extent of Acs.2-50 cents each in the year 1987. The temporary pattas were granted, as per Board Standing Order-15. As per G.O.Ms.No.420, Revenue, dated 25.03.1982 the land situated within 500 metres from high water mark of the sea should not be assigned. Further, vide G.O.Ms.No.536 Revenue (B) Department dated 20.05.1985 the said distance was extended upto 5 Kms. Though the pattas were cancelled by the revenue authorities in the year 1990, they raised the casurina trees in the schedule land. Further, the petitioners submitted their representations to the third respondent for restoration of the patta lands and the same is pending with the government. The

contention of the petitioners is that they are fully eligible for assignment of the land and there is no prohibition for grant of assignment pattas and sought for restoration of the 'D' Form pattas.

3. The Mandal Revenue Officer, Katrinikona Mandal, filed counter affidavit on behalf of the respondents stating that the petitioners applied for assignment of the land in the year 1987 for raising casurina plantations in survey No.41 on eastern side of Neelaveru H/o.Brahmasamedham Village. The Mandal Revenue Officer, after inspection, granted temporary 'D' Form pattas on 14.06.1987 to 29 beneficiaries @ Acs.2.50 cents each, subject to the condition of conversion of land to be approved by the Revenue Divisional Officer, Amalapuram. The Mandal Revenue Officer sub-divided the land as new survey Nos.84 to 90 covering an extent of Acs.72-50 cents as per the report of the Mandal Revenue Inspector. However, the Revenue Divisional Officer did not accept the proposal and observed that the land is within 5 Kms. of sea shore and prohibited in terms of G.O.Ms.No.536 Revenue dated 20.05.1985. The District Collector, East Godavari, also issued instructions in D.Dis.No.D3/6570/88 dated 12.11.1988 to cancel the temporary 'D' Form pattas as the land is within 5 Kms. of the sea shore and its assignment is against the instructions issued in G.O.Ms.No.536. In pursuance to the instructions of the District Collector, East Godavari, notices dated 08.01.1998 were issued to the temporary assignees and were served on 28.01.1998. After considering their explanations, proceeding No.B/452/87 dated 28.02.1990 was issued cancelling the temporary 'D' Form pattas. Consequently, the land was resumed to the government.

Thereafter, a Village Society applied for grant of some extent of accreted land on lease for the purpose of 'Bio Diesel Plants' and the said proposal is under examination. It is further averred that the land proposed for 'Bio Diesel Plants' is neither in occupation of the petitioners nor the persons who applied for 'Bio Diesel Plants'. The land is lying waste covered by full of sand. The petitioners never entered into the land and cultivated the land on the strength of the 'D' Form pattas granted to them in the year 1970. The temporary 'D' Form pattas granted to them do not confer any right over the land to the petitioners. The Mandal Revenue Officer has resumed the lands after cancellation of the pattas and the same has become final. However, the petitioners filed suit in O.S.No.8 of 1989 before the Subordinate Judge, Amalapuram, along with I.A.No.128 of 1999 and the same was dismissed on 08.08.1989.

4. On 27.03.2006 this Court admitted the Writ Petition. However, no interim orders were passed on the ground that the temporary pattas issued in favour of the petitioners were cancelled way back in the year 1990.

5. Heard both sides and perused the material on record.

6. The counsel for the petitioners made his submission reiterating the averments of the petition and he could not cite any precedents in law in support of his submission.

7. The learned AGP would contend that the petitioners were granted temporary 'D' Form pattas on 14.06.1987. Pattas were granted subject to approval for conversion of the land by the Revenue Divisional Officer, Amalapuram. The Revenue Divisional

Officer had not accepted the proposal for conversion of the land on the premise that the land is within 5 Kms. of the sea shore, as such, the same is not assignable in terms of G.O.Ms.No.536 Revenue dated 20.05.1985. The temporary 'D' Form pattas were cancelled after issuing notices dated 08.01.1989 and served on 28.01.1989. After considering the explanation of the temporary assignees, final orders of cancellation were issued by the Mandal Revenue Officer on 28.02.1990 cancelling the temporary 'D' Form pattas and the land was also resumed to Government. As the petitioners failed to show any legal right to assign the land to them, they have no legal right to seek assignment of the land and equally there is no legal obligation on the part of the respondents to assign the lands in favour of the petitioners.

8. Hence, the Writ Petition fails and is accordingly dismissed.

9. Miscellaneous petitions pending in this petition, if any, shall stand closed. There shall be no order as to costs.

(M.GANGA RAO, J)

15th December, 2017
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