

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.669 OF 2017

ORDER:

Heard the learned counsel for the petitioners and the learned Government Pleader for Revenue appearing for the respondents. With their consent, the present writ petition is disposed of at the admission stage.

2. The present writ petition came to be filed with the following prayer:

“to issue an order, writ or direction more particularly in the nature of Writ of Mandamus declaring the action of respondents in granting pattas in the land admeasuring Ac.0.26 cents in Sy.No.70/2, situated at Fazulbaghpeta of Srikakulam District, which is classified as “Road” or Gorji (channel) in the revenue records as illegal, void, and contrary to the Board Standing Orders.”

3. The averments in the affidavit filed in support of the writ petition would show that initially wife of the 1st petitioner by name S.Vijaya Kumari claimed to be the absolute owner and possessor of the land to an extent of Ac.0.20 cents in Sy.No.70/8 situated at 36th Ward, Bhairavanipeta, Srikakulam, having purchased the same by way of a registered sale deed dated 24.05.1994 vide document No.1617. After the death of his wife, the said property devolved upon the 1st petitioner and his name got recorded in the revenue records. The land all around were agricultural land, subsequently the neighbouring land owners converted their lands into house sites.

As such, the land in dispute is a vacant land falling under the jurisdiction of Srikakulam Municipal Corporation.

Initially, the father of the 2nd petitioner by name Jaggaiah was granted D-Form patta in the year, 1975, in respect of land admeasuring Ac.0.03 cents in Sy.No.70/2P of Fazulbaghpeta, Srikakulam, and on his demise, the property devolved upon the 2nd petitioner. In addition thereto, there exists an extent of Ac.0.04 cents of land besides the land given in assignment. The 2nd petitioner claims to be in possession and enjoyment of the land admeasuring Ac.0.07 cents and the revenue authorities have also issued pattadar pass book and title deed in his favour.

It is the case of the petitioners that on the western side of their land, there exists a Gorji (Channel) initially, which is now connected to a road leading from Visakhapatnam – Srikakulam and the road passing from Srikakulam – Bhairavanipeta. The said road exists since the time immemorial and the neighbouring owners of the petitioners and as well as the petitioners have been using the said road for their ingress and egress to their agricultural lands.

The total extent of the said road is Ac.0.26 cents and the same has been classified as “Road” in the revenue records. While things stood thus, respondents 3 and 4 are contemplating to issue D-Form Pattas in favour of the third parties in respect of land to an extent of Ac.0.26 cents in Sy.No.70/2. It is said that when the land has been classified as Road or Gorji (channel), the same cannot be

alienated nor any pattas can be granted. It is further stated that as per the Board Standing Orders, there is a prohibition of alienation and granting of pattas on the roads and poramboke or the channels. Hence, it is stated that when the subject land is classified as 'road', granting of pattas to the third parties is contrary to the provisions of the Board Standing Orders.

4. Learned counsel for the petitioners submits that in spite of giving number of representations by the petitioners, the respondent authorities are trying to convert the road into land and issue D-Form pattas in favour of third parties.

5. Learned Government Pleader for Revenue would submit that till date no action has been taken and it is only an apprehension of the petitioners that the authorities may convert the road into plots by issuing D-Form pattas in respect of the land to an extent of Ac.0.26 cents in Sy.No.70/2. He further submits that any action to be taken by the respondent authorities would be in accordance with law.

6. Having regard to the rival submissions made across the bar, the Writ Petition is disposed of directing the petitioners to make a fresh representation expressing their grievance with regard to issuance of D-Form Pattas in respect of land admeasuring Ac.0.26 cents in Sy.No.70/2 situated at Fazulbaghpeta of Srikakulam District covered by road, in favour of third parties, within a period of three (03) weeks from today, in which event, the 4th respondent –

Tahsildar shall consider the same and pass appropriate orders thereon, in accordance with law, at the earliest, after hearing all the concerned.

Consequently, Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

JUSTICE C. PRAVEEN KUMAR

Date:05.01.2017
INL

