

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT PETITION No.9285 of 2009

ORDER:

The challenge in the writ petition is proceedings in Lr.No.23/2008, dated 24.02.2009, issued by the first respondent as illegal, arbitrary and for a direction to the respondents not to interfere with the petitioner's land in an extent of Acs.3.00 in survey No.39-1A of Ponduru Village, Ponduru Mandal, Srikakulam District.

2. The petitioner's case is that he is a landless poor and was granted D-patta for an extent of Acs.3.00 of land in S.No.39-1A in 1979 *vide* D.C.No.2656 of 1999 and ever since, he has been cultivating the said land and enjoying the same. Pattadar passbook and title deed were also issued to him in respect of the said land. While so, the first respondent, who is the executive officer of the Gram Panchayat of Ponduru Village, without any semblance of right, started dumping the wastage in the land of the petitioner, causing much nuisance and annoyance to him. Due to the tortuous act of the first respondent, the land got polluted and fertility of soil was damaged. When the petitioner enquired, the first respondent informed that on the oral instructions of the second respondent, who is the Tahsildar, Ponduru Mandal, they were dumping the wastage. In those circumstances, previously the petitioner was constrained to file W.P.No.12381 of 2008 to declare the action of the first respondent as illegal and arbitrary. This Court, by its order, dated 28.08.2008, directed the respondents to consider the representation of the petitioner, dated 23.05.2008, and pass appropriate orders, in accordance with law, within a period of two weeks from the date of receipt of the copy of the order. Thereafter, the impugned letter, dated

24.02.2009, was issued by the first respondent. The petitioner apprehends that the respondents, without any authority and without following due process of law, may dispossess the petitioner from the schedule land. Hence, the writ petition to declare the letter, dated 24.02.2009, issued by the first respondent as illegal and to direct the respondents not to interfere with the petitioner's land in an extent of Acs.3.00 in survey No.39-1A in Ponduru Village.

3. The respondents have not filed counter-affidavit. Heard the learned counsel for the petitioner. The learned Assistant Government Pleader for Revenue representing the first respondent would submit that subsequent to the passing of the earlier order in W.P.No.12381 of 2008, the petitioner did not approach the second respondent to make any representation, but he only approached the first respondent, who it appears has issued letter, dated 24.02.2009, which is now impugned in the present writ petition and therefore, if the petitioner makes a representation, the second respondent is ready to examine and pass orders as per law.

4. As can be seen from the facts, the petitioner claims that the Revenue Department has given him Acs.3.00 of land in S.No.39-1A of Ponduru Village as D-patta in 1979 and he has been enjoying the same. It appears from the impugned letter, dated 24.02.2009, issued by the first respondent, the Revenue Department allotted Acs.3.00 of land in the very same survey number i.e., S.No.39-1A of Ponduru Gram Panchayat to the first respondent, for the purpose of using it as dumping yard. In that view of the matter, the second respondent is the best person to examine the matter and clarify whether the Revenue Department issued D-patta to the

petitioner and also allotted land to the first respondent in the very same survey number etc., facts.

5. Therefore, the petitioner is directed to make a representation along with the relevant documents to the second respondent within four weeks and upon such representation, the second respondent shall pass a reasoned order thereon within three weeks from the date of receiving the representation from the petitioner.

6. The Writ Petition is, accordingly, disposed of.

7. As a sequel, miscellaneous applications, pending if any, in this Writ Petition shall stand closed.

30th October, 2017
GHN

U.DURGA PRASAD RAO, J

