

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.23596 of 2011

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for the respondents.

2. The petitioner claims that he is a resident of Yattapalem, Pedagantyada Mandal, Visakhapatnam District. He states that he had four brothers and one sister. His father late Sammangi Desayya was eking out his livelihood by cultivating Ac.4.00 of Government land situated in Survey Nos.152, 153/26 and 154/2 of Pedagantyada Village. He further states that the then Tahsildar issued D-Form pattas on 29.07.1978 in respect of the land to an extent of Ac.02.70 cents in Survey No.153/26 and Ac.0-30 cents in Survey No.154/2 of Pedagantyada Village. He further states that he is in possession of not only the said lands, but also one acre of excess Government Land in Survey No.153/26 of the same village. While so, the 2nd respondent by proceedings Rc.No.3189/80/S.O, dated 23.07.1983, resumed patta lands along with some other lands for the purpose of establishment of steel plant, but, it was utilized for the purpose of rehabilitation of Dibbapalem village and compensation amount also paid for the lands taken.

3. Now, the present dispute relates to the alleged excess land of one acre in Survey No.153/26, for which no document is existed. The petitioner states that Government issued G.O.Ms.No.166, Revenue (Assn. POT) Department, dated 16.02.2008, for Transfer of Rights to certain occupations/encroachments of specified categories of unassigned Government Lands intending to regularize

the occupations which were there on or before 31.12.2003 and fixed the last date for submission of application in the prescribed form as 30.06.2008. The said date was extended from time to time and lastly, it was extended upto 30.04.2011. The extensions were made applicable only to the persons below poverty line who are in possession of below 80 square yards of land.

4. The petitioner states that there was no wide publicity for fixing the said time limit; and that the restriction of extension of time limit only to the persons below poverty line who are in possession of below 80 square yards of land is illegal. He further states that he submitted a representation for regularization of land to an extent of Ac.0-96 cents in Survey No.153/26, but only an extent of Ac.0-80 cents is in his possession. In those circumstances, he filed the present writ petition challenging the action of the 1st respondent in fixing the last date for submission of application for regularization of house/house sites.

5. A counter-affidavit is filed on behalf of the respondents stating that the alleged D-Form pattas issued in respect of lands situated in Survey Nos.153/26 and 154/2 of Pedagantyada Village were cancelled long back on 13.07.1983. Challenging allotment of said lands for rehabilitation of displaced persons, the petitioner and eight others filed W.P.No.13949 of 1988 before this Court and the same was dismissed by the Division Bench of this Court on 08.08.1996. This Court observed that after removal of encroachments under the provisions of the Land Encroachment Act the lands in the Village were acquired for Visakhapatnam Steel Plant and the State land was also transferred, and did not accept

the contention of the petitioners that the respondents have highhandedly interfered with their possession and enjoyment. Since the petitioners are claiming to be in possession of Ac.1.00 of excess land in Survey No.153/26, the said land is a Government land and was handed over to the requisitioning authority. Thus, the question of invoking the provisions of G.O.Ms.No.166, dated 16.02.2008, or regularisation of encroachments does not arise.

6. Now, the dispute pertains to the alleged excess land to an extent of Ac.0-96 cents, out of which, the petitioner claims that he is in possession of Ac.0-80 cents in Survey No.153/26. The petitioner filed the present Writ Petition fixing the last date of submitting the application for regularization under G.O.Ms.No.166, dated 16.02.2008 as bad. No document is filed by the petitioner evidencing his possession though the claim of the petitioner was that in respect of the same survey number, for an extent of Ac.2.70 cents, D-Form patta was issued by the then Tahsildar in favour of father of petitioner on 29.07.1978 and the said land was already resumed on 13.07.1983. Though in the counter-affidavit filed by the respondents, it was stated that the pattas were cancelled on the said date, it is not relevant or material as admittedly the land to an extent of Ac.2-70 cents was not in possession of the petitioner as on today.

7. So far as the claim of Ac.1-00 of excess land in said survey number is concerned, no document is filed by the petitioner as stated above. In the absence of any documentary evidence, the challenge of the petitioner for fixing the last date in G.O.Ms.No.166, dated 16.02.2008 is of no avail. It is not as if the

petitioner was unaware of the Government actions. The petitioner was a petitioner in W.P.No.13949 of 88 and fixation of last date, which is made applicable to general public, cannot be challenged by the petitioner. In any event, in the absence of any proof of possession of the land by the petitioner, no relief can be granted in the present writ petition.

8. Accordingly, the Writ Petition is dismissed. Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

JUNE 12, 2017
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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO



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Date: 12.06.2017

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