

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.29723 OF 2017

Dated:04.09.2017

Between:

Machavarapu Deveudamma,
W/o. Krishna, Aged 65 years,
Biccavolu Mandal, East
Godavari District and others

.. Petitioners

And

The State of Andhra Pradesh, rep., by its
Principal Secretary, Revenue
Department, Secretariat Buildings,
Velagapudi, Amaravathi Mandal,
Guntur District and others

.. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO**WRIT PETITION No.29723 OF 2017****ORDER:**

Heard.

2. Petitioners are assignees of subject lands. The individual extents of assignment, survey numbers and grant of pattas are mentioned by the petitioners in a tabulated form in paragraph No.2 of the affidavit filed in support of the Writ Petition. They claim that they are in possession and enjoyment of the said property. However, the Tahsildar passed the order dated 19.07.2017 to cancel the assignment pattas granted in favour of the petitioners. Paragraph No.8 of the order discloses that the lands were resumed on 09.01.2017 and there was clear violation of conditions of D-Form and therefore, pattas were cancelled and lands were resumed.

3. Learned counsel for the petitioners sought to contend that the facts stated before the Tahsildar are with regard to possession, enjoyment and cultivation of the lands assigned to the petitioners, which are not appreciated by the Tahsildar and highhandedly D-Form pattas were cancelled and lands were resumed. Learned counsel therefore contends that there is no point in preferring appeal as the revenue authorities are not appreciating the stand of the petitioners. She further contends that petitioners are cultivating the lands and photographs filed along with the Writ Petition would disclose that crop is standing on the subject lands and various trees were already planted and therefore, there is no violation of D-Form patta granted to the petitioners.

4. On earlier occasion, the petitioners filed W.P.No.7817 of 2017 praying not to take possession of the lands mentioned in paragraph No.2 of the affidavit and to direct the respondent authorities to follow the due procedure in accordance with the provisions of the Land Acquisition Act, 1894. When the said Writ Petition was considered, Court was informed that after following the due procedure, D-Form pattas were cancelled and lands were resumed. However, since some of the petitioners were not heard, the Court granted liberty to them to file their objections and the Writ Petition was disposed of directing the Tahsildar to examine the said objections/explanations and take appropriate decision as warranted by law. The Court also directed that the standing crop raised by the petitioners should be permitted to be harvested and carried by them. Taking due note of the directions issued by this Court and on consideration of the objections/explanations filed by the petitioners, the order impugned is passed and the said order discloses that possession was already taken on 09.01.2017.

5. In the written instructions dated 01.09.2017 furnished by the Tahsildar to the learned Government Pleader, it is clearly stated that possession was already taken and no crop was grown after January, 2017. However, there may be natural vegetation on the subject property.

6. Since petitioners have statutory remedy of appeal under the provisions of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short, 'the Act of 1977'), this Court is not inclined to entertain the Writ Petition. Moreover, balance of

convenience is not in their favour, as the record would disclose that possession was already taken.

7. Against the order dated 19.07.2017 passed by the Tahsildar, appeal shall lie to the Revenue Divisional Officer under the Act of 1977. Without exhausting the said remedy of appeal, petitioners filed this Writ Petition.

8. However, it is always open to the petitioners to impress upon the appellate authority to take due note of the objections/ explanations filed by them and that they should not be thrown out of the lands if they are in possession or should not be denied to enjoy the fruits of plantation already taken up by them. It is needless to observe that as and when such appeal is filed, the appellate authority shall consider the claims of the petitioners objectively and deal with each of the objections raised by them and pass appropriate orders within a period of three weeks from the date of receipt of a copy of this order.

9. Subject to the above, the Writ Petition is disposed of. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

Date:04.09.2017

KH

P. NAVEEN RAO, J