

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.21857 of 2006

ORDER

Heard learned counsel appearing for the petitioners, learned Government Pleader for Revenue appearing for respondents 1 and 2 and learned Standing Counsel appearing for the 3rd respondent.

The petitioners state that their father was granted D-Form patta for an extent of Ac.4.69 cents in Sy.Nos.157/1 & 158/7 of Kommadi Village. Their father died on 01.07.1989 and the petitioners succeeded to the said property. The petitioners claim that they have been in continuous possession of the property of an extent of Ac.3.93 cents in Sy.No.157/1 and an extent of Ac.0.85 cents in Sy.No.158/7. While so, on coming to know that the 2nd respondent passed an order cancelling the D-Form patta pertaining to the land to an extent of Ac.3.93 cents in Sy.No.157/1, submitted an application on 31.7.2006 seeking certified copy of the order which was alleged to have been passed in the year 2002 and the same was furnished to them. The petitioners noticed that the 3rd respondent is trying to encroach upon the land in the month of September, 2006 and in those circumstances, they filed the present writ petition challenging the proceedings

issued by the 2nd respondent in the year 2002 cancelling the assignment of land in question.

A counter-affidavit is filed by the 1st and 2nd respondents stating that the father of the petitioners was granted D-Form patta for an extent of Ac.3.93 cents in Sy.No.157/1 and Ac.0.85 cents in Sy.No.158/7 of Kommadi Village for agriculture purpose. On the instructions of the then Mandal Revenue Officer, Visakhapatnam, the Special Staff along with Mandal Surveyor and Mandal Revenue Inspector have inspected the assigned lands in the Mandal and noticed that the assigned land in Sy.No.157/1 was found vacant and was not brought under cultivation. Accordingly, a notice was issued under the provisions of A.P. Assigned Lands (Prohibition of Transfers) Rules, 1977, to the assignee through registered post on 28.12.2001 to show cause as to why he should not be summarily evicted. But the said notice was returned for want of door number. A local publication was made in Kommadi Village by affixing the notice on the schedule land and the contents of the notice was also proclaimed in the village by beat of tom-tom. Since there is no explanation from the assignee, D-Form patta issued to the assignee was cancelled *vide* proceedings 20.01.2002 and the land was resumed by the

Government in accordance with rules and handed over to Visakhapatnam Urban Development Authority on 15.2.2006.

This Court carefully perused the order of the Mandal Revenue Officer, Visakhapatnam (Rural) passed in Rc.No.99/2001/A/dated-2002, which is in printed proforma. It is clear from the averments of the counter-affidavit that the notice sent by registered post was returned for want of door number and notice was affixed on the land in question apart from proclaiming the contents of the notice by beat of Tom-Tom in the village.

The case of the petitioners is that their father died long back on 1.7.1989 and the petitioners continued to be in possession of the land. In view of the same, notice should have been issued to the petitioners, who are in possession of the land, but no such effort was made. If there is violation of any of the conditions, appropriate enquiry should be made with regard to the violation and no such enquiry took place. There is no dispute with regard to assignment of the land. There is also no proof of handing over possession of the land to the 3rd respondent.

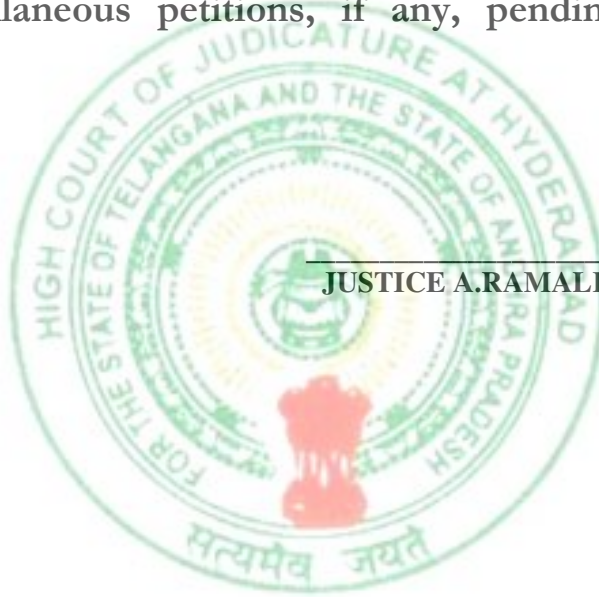
This Court while admitting the writ petition on 23.10.2006 granted interim suspension, as a result of which, possession of the petitioners was continued.

In the circumstances, the impugned order is set aside and the matter is remanded to the 2nd respondent for issuing appropriate notice to the petitioners. If there is any proposal by the 2nd respondent to take action for violation of the conditions, if any, he shall invite explanation and pass appropriate orders in accordance with law. Till such time, the possession of the petitioners shall not be disturbed.

Accordingly, the Writ Petition is allowed.

Miscellaneous petitions, if any, pending shall stand closed.

12th June, 2017
rkk



JUSTICE A.RAMALINGESWARA RAO