

HON'BLE SRI JUSTICE S.V.BHATT

W.P.No.8600 OF 2016

ORDER:

The petitioners pray for Mandamus declaring the action of respondent No.4 in interfering with the rights of petitioners in an extent of Ac.12-50 cents in Sy.No.1845 of LG.Padu Village, Bhimavaram Mandal, West Godavari District and not allowing the petitioners to enjoy the land at the instance of respondents 5 to 7, as arbitrary, illegal and unconstitutional.

The petitioners further prayed for a consequential direction to respondent No.4 to forbear from interfering with the rights of petitioners over an extent of Ac.12-50 cents in Sy.No.1845 of LG.Padu Village. The petitioners in support of above prayer have filed alleged assignment by way of alleged D-form pattas, proceedings dated 25.06.1991 and the copy of judgment in O.S.No.342 of 1991 in the Court of the Principal District Munsif, Bhimavaram.

From the above, it is clear the petitioners placed their case on the assignment, a few independent proceedings and the judgment of the Civil Court. The 4th respondent filed counter affidavit and denied substantially most of the allegations raised in the writ affidavit, but further disputed the veracity of documents on which the petitioners are relying upon. From the stand taken in the counter affidavit, even for the limited purpose of directing respondents to follow procedure stipulated by law, if respondents tried to interfere or evict the petitioners have to be considered, this Court will have to sit as a Court of appeal, verify the record and

thereafter record a finding in this behalf. There is sufficient history and several proceedings in respect of the subject matter of the writ petition. In the peculiar facts and circumstances of this case, this Court is satisfied that the petitioners should be relegated to file a petition with comprehensive prayers on the assignment granted to them; on the threatened interference by respondent No.4 or on the alleged possession claimed by respondents 5 to 7 before 3rd respondent.

Learned counsel requests four weeks time from today to file a petition as stated supra.

This Court, on 16.03.2016, granted interim direction restraining respondents from interfering with the possession of petitioners. To preserve *status quo* as on date, particularly keeping in view the liberty given to petitioners, the parties are directed to maintain *status quo* for a period of two months from today. The petitioners are given liberty to file an interim application for protection, pending consideration by respondent No.3. The 3rd respondent is directed to either personally inspect the subject matter of the writ petition or call for a report from respondent No.4 and pass orders as are warranted.

The writ petition is, accordingly, disposed of. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any pending, stand closed.

03rd July, 2017
Lrkm

S.V.BHATT,J