

HON'BLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.14359 of 2005

ORDER:

The present writ petition is filed by the petitioners questioning the action of the respondents in attempting to dispossess them from their land admeasuring Ac.0.65 cents in Sy.No.180 and Ac.0.55 cents in Sy.No.211 respectively situated at Poolapally Village, Palakol Mandal, West Godavari District, without following due process of law as illegal, arbitrary and violative of Articles 14 and 300-A of the Constitution of India.

It is the case of the petitioners that the 1st petitioner, who belongs to S.C. community, is in possession of Ac.0.65 cents of land in Sy.No.180. Similarly, the 2nd petitioner is in possession of Ac.0.55 cents in Sy.No.211. They have been in possession and enjoyment of these small extents by raising wet crops for several years and are paying the cist to the Government from time to time. However, the respondents, without conducting any enquiry, directed the petitioners not to conduct any agricultural operations in their lands. The petitioners also stated that all of a sudden on 30.06.2005, some red flags were posted in their lands. Therefore, the petitioners challenged the action of the respondents that without following due process of law they cannot be evicted them from their lands.

Per contra, the respondents have filed a counter affidavit denying the averments made in the affidavit filed in support of the writ petition and *inter alia* contended that the land in Sy.Nos.180

and 211 situated at Poolapalli Village of Palakol Mandal is a Government land and the petitioners are the encroachers of the said land. The 1st petitioner is an encroacher to an extent of Ac.0.60 cents in Sy.No.180 and the 2nd petitioner is an encroacher to an extent of Ac.0.45 cents in Sy.No.211. In fact, notices under Section 7 of the A.P. Land Encroachment Act (for short, "the Act") were issued and served on the petitioners on 15.03.2005. However, as the same were not received by the petitioners, they were affixed over the land under their encroachment by erecting a wooden poll and putting up the notices on the said poll on 16.03.2005 in the presence of the witnesses and also the Panchayat Secretary of Poolapalli Gram Panchayat. In the said notices though 15 days time has been granted to the petitioners to submit their explanation, if any, they have not submitted any explanation. In those circumstances, orders under Section 6 of the Act were passed on 04.04.2005. Since the petitioners refused to receive even the said orders, the land was taken over by the Government on 04.04.2005 itself and the Panchayat Secretary was directed to safeguard the land from the encroachers. Since the said date, the Government is in possession of the land. It is also stated that suppressing the above said facts the present writ petition is filed with all false and baseless allegations, more so, alleging that the respondents are threatening to dispossess the petitioners from the land. As such, the writ petition itself is not maintainable and is liable to be dismissed not only on the aspect of merits, but also on the aspect of suppressing the material facts.

A perusal of the contents of the affidavit filed in support of the writ petition would reveal that none of these aspects have been mentioned in the affidavit though the writ petition is filed on 04.07.2005 in this Court. As the possession of the lands has already taken over by the respondents on 04.04.2005 itself, no cause survives in the present writ petition.

The writ petition is accordingly dismissed. Interim order, if any, shall stand vacated. No costs.

Miscellaneous petitions, if any, shall also stand dismissed.

Date: 17.11.2017.
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P. KESHAVA RAO, J