

HON'BLE SRI JUSTICE S.V. BHATT

WRIT PETITION No.17791 OF 2009

ORDER:

The subject matter of writ petition is Ac.4.00 cents in Sy.No.61/2 in Siharipuram Village Accounts, Vijayapuram Mandal, Chittoor District.

The petitioner prays for Mandamus declaring the action of respondents 2 and 3 in threatening to dispossess him from his private patta land without following the procedure stipulated by law as arbitrary and unconstitutional.

The case of petitioner is that he is in possession and enjoyment of an extent of Ac.4.00 cents in Sy.No.61/2 of Siharipuram Village Accounts, Vijayapuram Mandal, Chittoor District. The petitioner claims right and entitlement to petition land through assignment dated 17.12.1985 and another through registered sale deed dated 23.04.2007 executed in his favour by the successors-in-interest of K.Venkata Raju, whose name is registered in the Settlement Register as owner. The grievance of petitioner is that firstly, the petition land is private land and secondly, without issuing notices in Forms I and II of A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 or giving any opportunity to him, respondents 2 and 3 are trying to interfere with his possession of petition land. Hence, the writ petition.

This Court, through order dated 28.08.2009, protected the possession of petitioner. The respondents filed petition to vacate the interim order.

In the counter affidavit filed along with the vacate stay petition, on the grievance of petitioner about not conforming to the procedure stipulated by law, it is stated that the respondents initiated action in Roc.B/115/2001 dated 01.08.2009 and on 02.08.2009 by recording the refusal of receipt of notice, the respondents claim to have effected the substituted service of notice on petitioner and finally, through order dated 18.08.2009 the assignment was cancelled and a direction was issued to resume the petition land. Therefore, it is contended that the grievance of petitioner is unfounded. The petitioner joined issue with the material averments in the counter affidavit.

Having perused the record, it is evident that recourse to substituted service is untenable and secondly, an order is passed on 18.08.2009 and the 3rd respondent claims to have taken possession on 20.08.2009. From the circumstances examined by this Court, it can be held that right from the initiation of proceeding in Rc.No.B/115/2001 dated 01.08.2009, till the alleged taking possession on 20.08.2009, everything has been done behind the back of the petitioner.

This Court having seen the record finds that the action of respondents 2 and 3 in interfering with the possession of petitioner is illegal, violative of principles of natural justice and unconstitutional. Though there is no prayer against the proceedings dated

18.08.2009, this Court considers it appropriate to mould the relief to meet the ends of justice by setting aside the proceeding dated 18.08.2009 firstly, as violative of principles of natural justice and secondly, it is also an un-communicated order kept in the custody of 3rd respondent.

The writ petition is ordered accordingly. No order as to costs.

The respondents, if circumstances warrant, are at liberty to issue notice, consider the explanation submitted by the petitioner, the applicability of provisions of Act 9 of 77 and pass appropriate orders.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

Date: 01.08.2017
Sp



S.V. BHATT, J