

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.16695 of 2016

ORDER:

Heard.

2. The present Writ Petition came to be filed seeking issuance of writ of Mandamus declaring the action of the respondents in trying to dispossess the petitioners from the land in Survey No.160/ 1 situated at Pidaparthypalem Village, Kollipara Mandal of Guntur District ignoring the D-Form pattas issued in their favour, as illegal and arbitrary.

3. The averments in the affidavit filed in support of the writ petition would show that the petitioners were landless poor persons belonging to Schedule Caste community and were eking out their livelihood through the agricultural land in Survey No.160/ 1 admeasuring Acs.5.13 cents situated on the bank of river Krishna, at Pidaparthypalem Village, Kollipara Mandal, Guntur District. It is stated that the petitioners are the absolute owners and possessors of the said land. It is further stated that the petitioners and others were granted with D-Form pattas in the year 1987 in respect of land admeasuring Ac.0.38 cents to 0.48 cents each. It is stated that the land admeasuring Acs.5.13 cents was granted in favour of ten persons. It is submitted that the petitioners formed themselves into a Tenant Co-operative Society and were cultivating the land. While things stood thus, the Sarpanch of the village, with a view to dispossess the petitioners from their respective lands, proposed to convert the entire extent of Acs.5.13 cents into a Tank under the Neeru-Chettu programme. Under the guise of the same, the authorities started digging the soil in the said land. When the petitioners questioned the same, the authorities left the place threatening the

petitioners to vacate the land. Aggrieved thereby, the present writ petition came to be filed.

4. By an order dated 26.05.2016, this Court while issuing *rule nisi*, granted *status-quo*.

5. A counter came to be filed by the fourth respondent denying the averments made in the affidavit filed in support of the writ petition. But, however, admitted that the petitioners were granted D-Form pattas in the year 1987 and that a tank was said to be in existence even by the date of issuing pattas.

6. Learned counsel for the petitioners mainly submits that the petitioners are in possession of the property since 1987 and have been raising crops in the said land. It is their case that the Tahsildar himself has granted D-Form pattas and now they are trying to dispossess the petitioners without canceling the pattas granted to them or following due process of law. The same is strongly opposed by the learned Standing Counsel Sri Ravi Cheemalapati, stating that D-Form pattas were never issued to the petitioners and that the petitioners are in wrongful possession of the said property.

7. In order to appreciate the above submissions, it would be useful to refer to paragraph No.2 of the counter affidavit filed by respondent No.3 which reads as under:

“..it is true that the petitioner land belongs to schedule caste community and it seems that the D-Form pattas were also issued to petitioners in the year 1987. But the conditions mentioned on the pattas were not fulfilled by the petitioners. The second condition mentioned in the patta is that the pattadar has to cultivate personally the said patta land within the period of three years from the date of issuing patta. The petitioner herein failed to fulfill the main condition. Thereby the very object of issuing of

patta was defeated. As per the 17th condition laid down in the patta itself shows that the Government authorities are empowered to hand over the possession from the pattadar without even paying any compensation in cases where the public interest is involved. The alleged tenant co-operative society is not in existence for the last two decades. It is false to allege that ever since from the date of granting D-Form pattas in favour of the petitioners and their ancestors the petitioners have been absolute possession and enjoyment of the respective lands. In fact they never cultivate the said lands and never paid any tax to the concerned authorities.”

8. From the above, the Tahsildar himself granted pattas to the petitioners in the year 1987. Further, if really the petitioners failed to cultivate the land since three years from the date of said assignment, nothing prevented the authorities from taking steps to cancel the D-Form pattas within the said period. No explanation is forthcoming as to why they kept quiet for nearly 35 years, without taking steps for dispossession, on the ground that they have violated the second condition of the patta. Infact, no material has been placed before the Court to show that no cultivation was done within a period of three years from the date of granting of pattas, except an entry in adangal. Apart from that, it is not the case of the authorities that D-Form patta granted to the petitioners was fake or forged. On the other hand, respondents deny the allegation that due to political relations, the Sarpanch of the village intended to dispossess the petitioners from their respective extents in order to convert the said land into a tank. As seen from the record, even as on the date of granting pattas, the said land was treated as a tank bed land. If that is so, no explanation is forthcoming as to why pattas were granted in respect of the said land.

9. Further, the learned counsel for the respondents relied on the entries made in adangal of the year 2016 to show that it was a tank land. On the other hand, learned counsel for the petitioners would submit that the

adangal of previous year show that the petitioners were in possession of the property in dispute and though an application was made for grant of copies of the adangal, the authorities failed to furnish the same. If really, the Government is in possession of the land, nothing prevented the authorities from filing copies of the adangal of the previous years.

10. Having regard to the fact that pattas were granted in the year 1987 itself, the respondents cannot now dispossess the petitioners arbitrarily, without following due process of law or by canceling the pattas granted to them. Hence, this Court is of the view that the action of the authorities in trying to dispossess the petitioners from the land in dispute is illegal and improper.

11. Having regard to the above circumstances; since the petitioners were granted D-Form pattas in the year 1987 and as seen from the record, the petitioners are in possession of the land, any action which has to be taken by the respondents to dispossess the petitioners from the land in dispute shall be done in accordance with law.

12. Accordingly, the writ petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions, pending if any, shall stand closed in the light of this final order.

23.03.2017
vhb

JUSTICE C. PRAVEEN KUMAR