

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.602 of 2007

ORDER:

Heard the learned Counsel for the petitioner and learned Government Pleader for respondent Nos.1 to 5. None appears for respondent Nos.6 and 7 in spite of service of notice.

The case of the petitioner is that his father Sri Khobragade Bhagwan, S/o.Khandia, was a protected tenant of the lands in Survey No.132 in an extent of Acs.4.25 guntas and Survey No.186 in an extent of Acs.6.60 cents situated in Muthampet Village, Kouthala Mandal, Adilabad District. He states that his father died long back leaving his mother, petitioner and four daughters. While so in the year 1989 he came to know that his father was a protected tenant and noticed that the land was occupied by respondent Nos.6 and 7. He submitted an application for restoration of possession with a Xerox copy of 38E certificate issued in the name of his father before the Sub Collector, Asifabad, and the petitioner was asked to produce the original 38E patta certificate standing in the name of the father of the petitioner. Since the said certificate could not be traced by him he did not produce the same. It was also alleged that the Xerox copy produced by him was a forged one. In view of the same, he filed an application before respondent Nos.2 and 3 for issuance of certified copies of 38E certificate, P.T.Extract, Khasara Pahani etc., and the same were issued on 20.06.2002. After receipt of the documents, he submitted an application on 06.06.2006. It is his further case that respondent Nos.1 to 3

are alleging that he forged the patta certificates issued under Sections 5 and 37 of Hyderabad Tenancy and Agricultural Lands Act, 1956, on 10.02.1952 in the name of his father and on that ground the first respondent directed respondent No.5 to initiate criminal proceedings against him. When there was a threat of arrest, he filed the present Writ Petition.

No counter affidavit is filed on behalf of official respondents. But, learned Government Pleader, on the basis of written instructions issued by the second respondent, submitted that the original tenancy file C/8894/82 was verified and it was noticed that the father of the applicant was not a protected tenant nor any rights were conferred on him under Section 38E of the Tenancy Act, 1950. The petitioner has been representing several times by producing a certificate "Un-protected Tenant" and a 38E certificate Xerox copy and when they were verified with the original record, the record of tenancy did not contain the name of the father of the petitioner. In those circumstances only no orders for possession were issued under Section 32 of the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950. In the subsequent files E/1598/1993 & E/2880/1995 opened on the representation of the petitioner, the claims of the petitioner were rejected while issuing memo to produce original tenancy certificate in the name of his father. The documents provided by the petitioner were found to be forged ones. The second respondent made an endorsement for booking a case against the petitioner under Section 420 IPC for fraudulent claim. The

petitioner knows about the said facts and in spite of the same he again filed petitions before the second respondent on 06.06.2006 and 27.11.2006. All the documents filed by the petitioner were referred to the Mandal Revenue Officer, Koutala, and the SI of Police, Koutala, to book a case under relevant Sections of IPC. The document alleged to have been issued under Section 38E of the Tenancy Act is a fake one.

The petitioner filed certain certified copies issued on 20.06.2002 and those documents might not have been made available to the respondents when they earlier issued orders in 1995 and 1996. The entire claim of the petitioner is based on those documents. Valuable land of the petitioner is involved. In the circumstances, the second respondent is directed to consider the representation of the petitioner dated 06.06.2006, conduct an enquiry and pass appropriate orders in accordance with law, within a period of six months from the date of receipt of a copy of this order. The petitioner is given liberty to file entire documentary evidence in his possession in order to decide his case finally.

The Writ Petition is, accordingly, disposed of. The miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

12.06.2017
vs