

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.10593 OF 2017

ORDER:

The case of the petitioners is that they were granted D-Form pattas in respect of the land admeasuring Ac.0-85 cents in Sy.No.425/1, Ac.1-00 cent in Sy.No.425/3 and Ac.0-26 cents in Sy.No.425/6 situated at Cherlopalem Village, Kovvur Mandal, SPSR Nellore District. While so, 3rd parties with an intention to occupy the said properties filed a suit in O.S.No.166/2013 on the file of Principal Junior Civil Judge, Kovvur and sought for temporary injunction in I.A.No.587/2013 alleging that they were granted pattas by the 4th respondent as land less poor persons. The said I.A was dismissed by the trial Court. Thereafter, petitioners made a representation to the 4th respondent seeking protection of their possession. As no action has been initiated by the 4th respondent so far, the present writ petition is filed.

Heard the learned counsel for the petitioners and the learned Assistant Government Pleader for Revenue.

It is not the case of the petitioners that there is alienation of assigned lands attracting the provisions of Andhra Pradesh Land Assigned Lands (Prohibition of Transfers) Act, 1977. It appears that there are disputes between the petitioners and the 3rd parties.

In ***Ch.Ramaiah v. District Collector, Mahboobnagar District and others***¹ this Court held as follows:

“.....Admittedly, the petitioner left the village in search of livelihood and when he came back to the village, it was found that the fourth respondent encroached upon the land in Survey Nos.778/1 and

¹ 2005 (6) ALT 358

778/2. No allegation of any transfer of such land in favour of the fourth respondent by the father of the petitioner or the petitioner himself. In such an event, the provisions of the Act are not attracted. The petitioner, admittedly, had a possessory title as well as substantive right (see *Land Acquisition Officer-cum-RDO v. Mekala Pandu*). Therefore, when the possession of the owner/possessor is disturbed, it gives rise to a cause of action to a suit for specific relief or permanent injunction or suit for possession simpliciter under Section 5 of the Specific Relief Act, 1963. Further, as the petitioner claims to be a person belonging to Scheduled Caste and as he is allegedly, wrongfully dispossessed by a person not belonging to Scheduled caste or scheduled tribe, the same would amount to cognizable offence under Section 3(1)(v) of the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989 (the Act). Therefore, the petitioner has to seek redressal elsewhere and the writ petition is not maintainable. It is brought to the notice of this Court that the petitioner's representation dated 06.07.2005 and 01.08.2005 have not been disposed of by the respondents 1 to 3. Therefore, without waiting for the response from then, the petitioner is given liberty to approach the civil Court and also lodge a complaint under Section 3(1)(v) of the Act. In this writ petition, no relief can be granted"

The ratio laid down in the above case squarely applies to the facts of the case.

In view of the above facts and circumstances, no relief can be granted in the writ petition. Accordingly, writ petition is dismissed granting liberty to the petitioners to avail appropriate remedy available under law. No costs.

As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY, J

04.04.2017

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