

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

Writ Petition No.27879 of 2010
and
Writ Petition No.20391 of 2011

COMMON ORDER:

The Writ Petition No.27879 of 2010 came to be filed seeking issuance of a Writ, order, or direction, more particularly one in the nature of writ of *Mandamus* declaring the impugned order passed by the 2nd Respondent – District Collector in Case No.E5/4719/2010, dated 24.10.2010, as illegal and arbitrary and consequently, to set aside the same.

The Writ Petition No.20391 of 2011 is filed by the petitioner, who is brother-in-law of 1st petitioner and brother of 2nd petitioner in W.P.No.27879 of 2010, seeking to issue a Writ, order, or direction, more particularly one in the nature of writ of *Mandamus* declaring the action of respondents 1 to 4 in not considering the petitioner's claim for assignment of land to an extent of Ac.1.48 cents, situated in Sy.No.134/1 of Chamadala Village, Jaladanki Mandal, Sri Potti Sriramulu Nellore District, as illegal and arbitrary and consequently, direct the 4th respondent to grant D-Form patta to the petitioner by setting aside the assignment granted in favour of Respondent Nos.7 and 8.

The averments in the affidavits filed in support of the writ petitions would show that petitioners in both writ petitions are residents of Chamadala Village, Jaladanki Mandal, Sri Potti Sriramulu Nellore District and the paternal grand father of the petitioner in W.P.No.20391 of 2011 late Sri Ravuri Guravaiah had been in occupation of the said piece of land

belonging to Government (Anadeenam) admeasuring Ac.1.48 cents, situated in Sy.No.134/1 of Chamadala Village, Jaladanki Mandal, Sri Potti Sriramulu Nellore District, since more than three decades. It is stated that Sri Ravuri Guravaiah had no other land except the said land, which was in his possession and enjoyment. Unfortunately, the father of the petitioner in W.P.No.20391 of 2011 pre-deceased the paternal grand father of the petitioner. Thereafter, his grand father also died on 15.9.1999. Since he was a minor, his sister and her husband – petitioners in W.P.No.27879 of 2010 who are shown as respondents 5 and 6 in W.P.No.20391 of 2011 took custody of him and are cultivating the land by paying cist. After attaining majority, he made an application to the concerned authorities for grant of patta in respect of subject land. While things stood thus, respondents 7 and 8 in W.P. No.20391 of 2011, who are shown as respondents 5 & 6 in W.P.No.27879 of 2010, approached the High Court vide W.P.No.18164 of 2009 stating that their representation, dated 8.6.2008 for assignment of the very same extent of land was not being considered. By order, dated 28.8.2008 this Court disposed of the writ petition directing the authorities concerned to consider the said representation within 8 weeks. Pursuant to the direction, respondents granted D-Form patta to respondents 7 and 8 in W.P. No.20391 of 2011, who are shown as respondents 5 & 6 in W.P.No.27879 of 2010.

It is stated that instead of considering the representation, dated 23.2.2006 of the petitioner in W.P.No.20391 of 2011 for assignment, which has been long pending, the assignment was granted in favour of respondents 7 and 8 in W.P. No.20391 of 2011, who are shown as respondents 5 & 6 in

W.P.No.27879 of 2010. It is further stated that paternal grand father of the petitioner in W.P.No.20391 of 2011 was a sivoi-jamedar and sivoi jamedars are entitled for preferential and pre-emptive right at the time of assignment. By an order, dated 10.11.2010 in W.P.No.27879 of 2010 this Court granted *status quo* as on date with regard to possession of the subject land.

A counter came to be filed by respondents 7 and 8 in W.P.No.20391 of 2011 disputing the averments made in the affidavit filed in support of the writ petition. It is their case that petitioners are not in possession of the land and that the petitioners have no right over the said land. It is further alleged that since the stay has been vacated in W.V.M.P.No.1612 of 2011 in W.P.No.27879 of 2010, the question of continuing with the order of *status quo* dated 10.11.2010 would be illegal and incorrect.

Though various grounds are raised, the learned counsel for the petitioner in W.P.No.20391 of 2011 would submit that the petitioner made a representation to authorities on 23.2.2006 requesting for grant of patta in his favour, in respect of the subject land, and since the same is pending, the authorities may be directed to consider the same at the earliest. Pending consideration of the representation, he seeks order of *status quo* to be maintained. The same is opposed by the learned counsel for respondents.

It is to be noted that by order, dated 24.10.2010 the Joint Collector rejected the request of petitioners in W.P.No.27879 of 2010 holding that the writ petition No.13001 of 2010 filed by the petitioner is still pending and the matter is *sub judice* before the Hon'ble High Court. But, however, the counsel for writ petitioners herein submits that the Joint Collector failed to consider the report of the M.R.O. which clearly indicates that writ petitioners

herein are in possession of the subject properties since long time. The order of the Joint Collector does not anywhere indicate consideration of the report of the M.R.O. As per BSO-15, the R.D.O. can decide the claim made, which fact is not seriously disputed by the Government Pleader or by the counsel appearing for respondents 7 and 8 in W.P. No.20391 of 2011, who are shown as respondents 5 & 6 in W.P.No.27879 of 2010

Hence, both Writ Petitions are disposed of directing the 3rd respondent - R.D.O. to consider the claim of writ petitioners in both writ petitions for assignment of land, if not already assigned, in accordance with law after hearing unofficial respondents and pass orders in accordance with law within a period of six weeks from the date of receipt of a copy of the order. Till such time, the interim order granted by this Court in W.P.M.P. No.24740 of 2011 in W.P.No.20391 of 2011 shall remain in force. No order as to costs.

As a sequel, miscellaneous petitions, pending if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

20th March, 2017

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