

HON'BLE SRI JUSTICE S.V.BHATT

W.P.No.15444 of 2010

ORDER

Heard Mr.V.R.Reddy Kovvori for petitioner and the learned Government Pleader for Revenue.

The subject matter of writ petition is an extent of Ac.2.00 of land in Sy.No.101 of Kothur Village and Mandal, Mahabubnagar District.

The petitioner prays for Mandamus directing respondent No.3 to forthwith issue D-Form patta to petitioner in terms of allotment/proceedings dated 26.12.2006 of respondent No.4.

The circumstances relevant for disposing of the writ petition are briefly stated thus:

The petitioner is a resident of Kothur Village and a landless poor person. The petitioner applied for allotment of land enjoyed and held by respondent No.4. Respondent No.4, according to petitioner, after due enquiry, allotted to petitioner an extent of Ac.2.00 in Sy.No.101 of Kothur Village and Mandal, through proceedings No.BYB/C/97/06, dated 26.12.2006. In furtherance of said allotment, the petitioner claims possession and enjoyment

of the allotted land. The petitioner alleges that the allotment vide proceedings dated 26.12.2006 conforms to the requirements of A.P.Bhoodan and Gramdan Act, 1965 (for short 'the Act') and the A.P.Bhoodan and Gramdan Rules, 1965 (for short 'the Rules'). According to Rule 10 of 1965 Rules, the allotment of 4th respondent is formalized by grant of D-Form patta by respondent No.3.

Now, the grievance of the petitioner is that in spite of allotment, respondent No.3, who is under obligation to issue D-Form patta, has not moved in the matter. Hence, the Writ Petition.

The 3rd respondent filed counter-affidavit opposing the writ petition prayer in all fours. Briefly stated the case of the 3rd respondent is that the agricultural land in an extent of Ac.14.01 cents in Sy.No.101 of Kothur Village is a patta land from 1955-56 till date, stands in the name of one Kadempally Narayana s/o Kistaiah. On the demise of K.Narayana, his legal heirs have sold the property under registered sale deeds to 3rd parties. An extent of Ac.1.20 guntas stands in the name of K.Srinivas, one of the legal heirs of Narayana. The 3rd respondent denies either

possession or enjoyment by petitioner pursuant to allotment proceedings dated 26.12.2006 of subject land. Adverting to the allegation that the petitioner approached the 3rd respondent for relief of D-Form patta, the 3rd respondent categorically denies the allegation that the petitioner ever approached the 3rd respondent.

Be that as it may, from the records maintained by 3rd respondent on the nature and ownership of land, it is stated that there is no evidence to show that the land belonging to Bhoodhan Board. In continuance of such denial, it is stated that the land in Sy.No.101 is a patta land. The 3rd respondent refers to standard procedure of allotment by land owners in favour of Bhoodhan Board and the proceedings issued and record maintained in this behalf, and by adverting to the standard procedure, it is stated that record required for assuming the land as Bhoodhan Board land is not available with the 3rd respondent. It is further stated that at no point of time, Sy.No.101 is registered as Bhoodhan land or as Kharij Khatha. Therefore, the 3rd respondent submits that as it is not Government land or Bhoodhan Board land, he cannot take steps as complained in the writ petition.

Sri V.R.Reddy Kovvori for petitioner contends that the 3rd respondent is under obligation to issue patta under Rules 1965 and non-issuance of patta and raising a dispute in the counter-affidavit on the entitlement of Bhoodan Board, is not within the jurisdiction of the 3rd respondent. He further contends that the 4th respondent has not filed counter-affidavit till date and the non-filing of counter-affidavit substantially supports the case of the petitioner.

Counsel for 4th respondent supports the case of the petitioner. However, there is no pleading or record produced for consideration by this Court to prima facie appreciate the case pleaded by petitioner and supported by 4th respondent.

On consideration of the above circumstances, this Court is of the view that the petitioner is a beneficiary of an extent of Ac.2.00 of land in Sy.No.101 from the 4th respondent. The difficulty now expressed by the 4th respondent is that Sy.No.101 is not recorded as belonging to Bhoodan Board or Kharij Khatha in revenue records. The 3rd respondent does not disown the responsibility to issue D-Form patta if valid proceedings are communicated and such proceedings and in relation to land

standing in the name of Bhoodan Board. The fact in issue for consideration in the writ petition is in the realm of ownership or entitlement of Bhoodan Board *vis-à-vis* an extent of Ac.2.00 of land in Sy.No.101 of Kothur Village.

This Court, while considering the prayer for implementation of the proceeding issued by the 4th respondent, ought not have embark upon detailed enquiry, into the procedure followed by the Bhoodan Board for claiming subject land consequent enjoyment and its authority to allot to the petitioner.

Having regard to the stand taken in the counter-affidavit by respondent Nos.2 and 3, these aspects are primarily to be taken up for resolution before 4th respondent. This Court having noticed the stand taken in the counter-affidavit is not persuaded to direct respondent No.3 to implement the proceedings dated 26.12.2006. From the stand taken in the counter-affidavit it is evident that third party interests are also involved and therefore in this case this Court is dealing to examine its jurisdiction or discretion for any purpose. But at the same time, the issue of ownership and grant in favour of the 4th respondent cannot also be treated as considered and decided by this Court. The

petitioner if is interested in working out relief according to the Rules, is given opportunity to represent to 4th respondent to get D-Form Patta from the 3rd respondent by enclosing a copy of this order within four weeks from today. The 4th respondent is directed to verify all the records and the land dealings vested with it. If the 4th respondent approaches with all the documents and details, respondents 2 and 3 are directed to look into and pass orders in accordance with law within two months thereafter.

Accordingly, the Writ Petition is disposed of. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE S.V.BHATT

12th October, 2017
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