

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.23902 of 2012

ORDER:

This writ petition, under Article 226 of the Constitution of India, by the petitioner against APSPDCL, its Officers, the State and its Officers is filed impugning the action of the respondents in dumping construction material and trying to construct electricity sub-station in a land of an extent of Ac.0.38 cents in Sy.No.14-7A of Pappireddypalli village, Madanapalli Mandal of Chittoor District, without initiating land acquisition proceedings and without giving notice to the petitioner, who is the owner and possessor of the said land, as illegal & arbitrary and in violation of principles of natural justice and Articles of the Constitution; and, to direct the respondents not to make any such construction in the said land.

2. I have heard the submissions of Smt. K. Pallavi, learned counsel appearing for the petitioner, of learned Standing Counsel for APSPDCL, and of learned Government Pleader for Revenue. I have perused the material record.

3. The case of the petitioner is this:

She is the absolute owner and possessor of the aforestated agricultural land. She is a landless poor lady. As such in the year 2003, on her representation, the revenue authorities, having made a thorough enquiry, granted 'D' form patta *vide* proceedings in JB/ 4/ 1413, dated 31.07.2003, in respect of the above said land in favour of the petitioner. By virtue of the said 'D' form patta, the petitioner is the absolute owner and possessor of the property. She used to use the land for raising grass for feeding cattle. She and her family members cleared a part of the

land and kept the remaining extent with the grass raised in it. While so, on 26.07.2012, the authorities of APSPDCL started dumping construction material in the portion of the land where the grass has been cleared. On questioning, they replied to the petitioner that an electricity sub-station is going to be constructed in that portion of the land. The petitioner protested for the same by showing her patta to the said authorities. However, they ignored her protest and proceeded with their activity. The respondents 1 to 3 are not entitled to make any illegal construction of sub-station in the land of the petitioner. If the land is required for construction of the sub-station, the respondents and the Government authorities have to initiate land acquisition proceedings in the first instance. The said action of the respondents 1 to 3 is in gross violation of Article 300-A of the Constitution of India and principles of natural justice. On account of the said acts of the respondents, the petitioner suffered serious loss.

4. The case of the Officers of the APSPDCL, in brief, is this:

The land admeasuring Ac.6.10 cents in Sy.No.14 of Pappireddypalli village is classified as Assessed Waste Dry (AWD)-Government land. The Tahasildar, Madanapalle, after inspection of the land in an extent of Ac.0.38 cents in Sy.no.14/ 7 and after due enquiry into the status of the land, sent proposal to the Sub-Collector, Madanapalle, for alienation of the said land in favour of A.P. Transco, Madanapalle. The said proposal for alienation of the said land in favour of Divisional Engineer, Operations, Madanapalle, for construction of 33/ 11 K.V sub-station, was in turn forwarded to the Collector, Chittoor. Pending approval of the alienation, the Tahasildar, Madanapalle, has handed over possession of the said land to the officers of the A.P.

Transco. Having taken possession of the subject land, the construction work of sub-station was commenced, on 27.06.2012, and it has come to final stage of completion. The land was entered upon by the officers of the respondent authorities with proper authorisation of the authority concerned. The respondents 1 to 3 cannot adjudicate the claim made by the petitioner with regard to issue of DKT patta. She has to seek redressal of her grievance by approaching the revenue authorities.

5. Though the writ petition is filed initially against the respondents 1 to 3, the District Collector and the Tahasildar concerned are subsequently impleaded as respondents 4 and 5 as per orders, dated 12.12.2012, in WPMP.No.45986 of 2012.

6. The case of the Tahasildar of Madanapalle, in brief, is this:

The land in an extent of Ac.0.57 cents in Sy.No.14/ 7 of Pappireddypalli village is classified as AWD as per the diaglot of the village and the above land was sub-divided long time back as 14/ 7A of an extent of Ac.0.38 cents and 14/ 7B of an extent of 0.19 cents. The extent of Ac.0.38 cents remained as AWD in the possession of the Government. The other extent of Ac.0.19 cents in Sy.no.14/ 7B was granted on assignment in favour of the husband of the petitioner *vide* A.M.No.22/ 4/ 1411 and proceedings in D.Dis.No.3621/ 1995. Thus, the husband of the petitioner is an assignee of Ac.0.19 cents of land and he is in exclusive possession and enjoyment of the said land in Sy.no.14/ 7B. The Government has not interfered with the possession of the husband of the petitioner over the said land. It is utterly false and baseless to state that Ac.0.38 cents in Sy.no.14/ 7A was granted on assignment by way of D form patta to the petitioner. Any such assignment has not emanated from the office of this respondent. On the strength of

spurious and bogus documents, the petitioner has chosen to file this writ petition. The petitioner is harping that land acquisition proceedings should have been taken before the land was alienated to the electricity department for construction of electricity sub-station. Since the land is a Government land, there is no mandatory requirement of land acquisition proceedings and the provisions of the Land Acquisition Act are not at all applicable to the case on hand. The writ petition is motivated and misconceived. The writ petition may be dismissed.

7. At the hearing, learned counsel for both the parties made submissions in line with the respective pleadings of the parties.

8. As per the defence of the State, particularly the contentions of the 5th respondent, Tahasildar, it emerges that out of Ac.0.57 cents of land in Sy.No.14/ 7, Ac.0.19 cents in Sy.No.14/ 7B, after sub division, was assigned on a patta to the husband of the petitioner and the remaining Ac.0.38 cents remained as AWD in the possession of the Government and that therefore the same was assigned/ alienated to the electricity company for construction of electricity sub-station and that since it is a Government land and is not assigned to any person including the petitioner herein, the writ petition is misconceived. Whereas the case of the petitioner is that she is a land less poor lady and that the Government has assigned the said Ac.0.38 cents of land, which is the subject matter of the present writ petition, to her by way of a D form patta. She not only produced attested copy of the D form patta but also certified copy of No.4 register issued by the Tahasildar, Madanapalle, showing that she is the possessor of the dry land of Ac.0.38 cents in Sy.No.14/ 7A and that the said land was assigned to her. It is also brought to the notice of this Court that the very same Ac.0.38 cents of

land was proposed for being alienated to A.P. Transco for construction of electricity sub-station.

9. Learned Government Pleader representing the State would contend that originally an extent of Ac.0.57 cents in Sy.No.14/ 7 in Pappireddypalli, village has been originally granted on DKT to J. Kesavulu *vide* AM.No.55/ 4/ 87; but, the same has been cancelled and changed as AWD *vide* proceedings of the Sub-collector, Madanapalle, in D.Dis.No.19527/ 78, dated 22.05.1979, and the proceedings of the Tahasildar, Madanapella in B3/ 3461/ 79, dated 28.06.1979, but, the connected file has not been traced out in the records and that only Ac.0.19 cents in Sy.no.14/ 7 of the said village is only in possession of Ramakrishna and that the remaining land was not in his possession and that these facts are borne out by the record available with the Tahasil office/ Mandal Revenue office. Having regard to the controversy, the learned Government Pleader produced the record available with the Tahasildar's office concerned. Though it is contended in the counter of the Tahasildar that Ac.0.19 cents was assigned on patta to the husband of the petitioner herein by name Ramakrishna, the record produced before the court on a plain perusal would show that originally entire Ac.0.57 cents was assigned on DKT patta to one J. Kesavulu but later the same has been cancelled and that a patta was granted to J. Ramakrishna and that he has been put in possession of Ac.0.19 cents in Sy.No.14/ 7 in the 15th round of (JB) Janma bhoomi and that he is in possession and enjoyment of the said assigned land. However, the record also shows that the office concerned of the Government is not having connected file record which shows that the DKT in favour of Kesavulu was cancelled.

10. The learned counsel for the petitioner brings to the notice of the Court that the then Tahasildar, Amarendra Babu, was responsible for various misdeeds while he was Tahasildar of Pappireddypalli village and that he was suspended from service and that the contentions now advanced by the Government based on manipulated and non available record are all false and that admittedly the petitioner's husband was granted patta in respect of Ac.0.19 cents in Sy.no.14/ 7B and that the petitioner was granted DKT patta for Ac.0.38 cents in Sy.no.14/ 7A as per the original patta, which is issued by the then Mandal Revenue Officer, Madanapalle. In-fact, the original patta and a colour photostat copy of the patta are also produced before this Court to show that Ac.0.38 cents of land in Sy.no.14/ 7A was assigned on DKT patta to the petitioner herein. Though there are copies of DKT pattas in the names of Mopuri Santhamma and Satamuri Ramappa in the records produced, the copy of the D form patta in the name of Ramappa does not bear the signature of any officer and the copy of the patta in the name of Santamma though initialled by MRO is in respect of Ac.1.00 cents of land but does not contain the survey number of the said land. Since the documents filed by the petitioner are disputed as bogus, this Court carefully perused the record produced on behalf of the respondents 4 and 5 including the original adangal of Pappireddypalli village. A perusal of the original adangal pahani in respect of Ac.0.38 cents of land in Sy.no.14/ 7A clearly shows that the name that originally appeared in columns 12 and 13 relating to kathadar/pattadar and possessor and the entry in column no.15 dealing with nature and possession were manipulated by applying white fluid and in column no.12 it is written as 'anadheenam'. Similarly in column no.8 where the description of the land is to be recorded, the

original entry was erased by applying white fluid and it was written as AWD. Further, the entry in column no.6 related to nature of the land, that is, as to whether it is patta or inam or Government land, the original entry was removed by applying white fluid and it is over written as Government (prabhutvam). Thus, not only the inconsistent stands taken by the Government but also the manipulation of the record would clearly lay bare that the stand of the Government is not correct and that the contention of the petitioner that the land was assigned to her by way of a D form patta appears to be true, in the facts and circumstances of the case. It is settled law and it is undisputed that whenever any corrections are to be made in the permanent Government Records enquiry shall be made and on due enquiry appropriate proceedings for corrections, if any, in the permanent records shall be issued by the competent authority and then the corrections shall be made under the signatures of the officers authorised to make corrections in the original record by making a mention of the details of the proceedings at the place where the corrections are carried out in the original permanent records. The said course was not followed but the corrections were illegally made by erasing the original entries by applying white fluid and the permanent record was thus manipulated; and, no explanation is forthcoming from the State for such illegal acts. However, the learned Government Pleader would forcefully contend that when the husband of the petitioner was already assigned Ac.0.19 cents of land in Sy.no.14/ 7B the Government ought not to have again assigned Ac.0.38 cents of land to the wife of the same person, that is, the petitioner herein and, therefore, the contention of the Government that only Ac.0.19 cents was assigned to the husband of the petitioner as mentioned in the counter of the then Tahasildar is only correct and, therefore, it is

possible to infer that the patta produced by the petitioner is a bogus document. However, in view of the manipulations of the original record with the Government, which is produced before this Court, and the original patta and the copy of the patta produced by the petitioner, which appear to be genuine in the facts and circumstances of the case, this Court is not inclined to accept the said contentions advanced on behalf of the State. Even assuming that one patta is granted to the husband of the petitioner and another patta is granted to the petitioner, on that ground the Government cannot usurp the land allotted to the petitioner by way of D form patta without following the procedure established by law, as rightly contended by the learned counsel for the petitioner.

11. Be that as it may, learned counsel for the petitioner fairly submits that in the part of the land where the grass has been cleared, the sub-station has already been constructed by the respondents 1 to 3 and that the petitioner is continuing in possession in the remaining portion of the assigned land and, therefore, her possession in respect of the remaining extent of land may at least be protected by granting appropriate relief leaving it open to her proceed legally in respect of the illegally usurped portion of the land.

12. Having regard to the facts and submissions and on the above analysis, this Court is satisfied that the petitioner made out sufficient case and that the petitioner is entitled to succeed in respect of the remaining land in her possession after excluding the land wherein the electricity sub-station was already constructed.

13. Resultantly, the Writ Petition is allowed in part, with costs, directing the respondents not to interfere with the possession and

enjoyment of the petitioner over the remaining extent of land out of Ac.0.38 cents in Sy.no.14/ 7A, that is, the remaining land after excluding the area or extent of land over which the electricity sub-station is constructed by the respondents 1 to 3, except in accordance with the procedure established by law. The costs are quantified at Rs.10,000/-.

It is needless to state that the District Collector shall forthwith initiate necessary action against the officers and staff concerned of the Tahasil office/MRO's office or of any other Government office, who are responsible for the manipulation of the Government records, if such action is not already initiated.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

14.03.2017
VJI



M. SEETHARAMA MURTI, J