

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WV.MP.No.3035 of 2017

in/and

W.P.No.10429 of 2017

and

WV.MP.No.2990 of 2017 in WP.MP.No.12965 of 2017

in/and

W.P.No.10464 of 2017

COMMON ORDER:

1. Petitioners have filed these Writ Petitions assail the action of the respondents in trying to evict them from the subject lands in Koduru Village, Penagaluru Mandal, Kadapa District, without following due process of law.

2. Petitioners' case is that the subject lands have been assigned to them under the Board Standing Orders on 12.05.1984 by the then Tahsildar, Rajampet. Thereafter, they brought the land under cultivation and pattadar pass book and title deeds were also issued to them. Copies of pattas as well as pattadar pass book and adangals, showing mutation of their names, have been filed by the petitioners.

3. Petitioners contend that their names were also included in 1B register; government seal was put therein in 2010 and unique ID stickers were also given to their khatas; since there is no permanent water source to their lands and they are dependent on rains, they could not raise the crop from 2014 on account of drought situation; without following due process of law, respondents seek to dispossess them from the

subject lands in their occupation; the villagers of Reddy Krishnampalli, a neighbouring village, represented to the Collector for grant of pattas in their favour; and that to favour the said persons, 4th respondent is attempting to dispossess them and assign the subject lands to third parties.

4. Having regard to the above contentions raised by the petitioners, on 23.03.2017 in WP.No.10429 of 2017 and in WPMP. No.12965 of 2017 in WP.No.10464 of 2017, interim direction was granted not to dispossess the petitioners from the subject lands. Subsequently, the said orders were extended from time to time.

5. WV.MP.No.3035 of 2017 is filed by the respondents to vacate the interim order dt.23.03.2017 in W.P.No.10429 of 2016 and WV.MP.No.2990 of 2017 is filed by respondents to vacate the order dt.23.03.2017 in WP.MP.No.12965 of 2017 in W.P.No.10464 of 2017.

6. In the counter affidavit filed by the 4th respondent in support of the above vacate petitions, it is stated that in the adangal for the respective survey numbers, for which assignment is being claimed by petitioners, their names are registered as pattadars and enjoyers.

7. It is not denied that DKT pattas were issued to the petitioners and pattadar pass book and title deeds were also

issued to them. It is not denied that any steps were taken to cancel them.

8. But it is averred that in Proforma-I Register, stated to be a register containing details of assigned lands prior to 1990, no entries have been made regarding assignment in favour of petitioners in regard to the subject survey numbers. It is not stated under which provision of law these registers are maintained and how the entries in the said Proforma-I Register are relevant and can cast a doubt on the assignments granted to the petitioners in the year 1984.

9. It is also not denied that the respondents had not followed any due process of law while attempting to dispossess the petitioners from the subject lands. Once, pattadar pass book and title deeds were issued to the petitioners and their names were also entered in the Adangals by the respondents before attempting to dispossess them from the subject land, the respondents are obligated to follow the due process of law.

10. A further plea is raised by the 4th respondent in the counter affidavit filed that petitioners applied for fixing of boundaries of their assigned lands and they had also sought a survey of their lands by a licensed surveyor recently, and so the petitioners themselves do not the location of their lands. Neither the applications filed for sub-division (F-Line) nor

applications pursuant to which survey was done, are annexed to the counter affidavit. So this plea also cannot be accepted.

11. It is next contended by the 4th respondent that the petitioners are residents of Gattuwaripalli village and they are not residents of Konduru Revenue Village. How this factor is relevant, when the assignments have been in vogue for 33 years, is not explained by the 4th respondent, particularly, when the adangal and pattadar pass books are issued to the petitioners in respect of the subject land.

12. It is also contended by the 4th respondent that the land is covered by thick bushes and appears like jungle and there were no traces of cultivation. This is explained by the petitioners by stating that since there is no permanent source of water, they are not in a position to presently cultivate the land and they had stopped cultivation since 2014. Therefore, on this basis also, the respondents cannot interfere with the possession and enjoyment of the petitioners over the subject land.

13. The true reason why the respondents are interfering with the possession and enjoyment of the petitioners over the subject land, as admitted by the 4th respondent, is that persons belonging to Reddy Krishnampalli wanted cancellation of DKT pattas granted to the petitioners and assignment of the said land to them. Why the petitioners,

who were assigned land in 1984, alone should be targeted, and why other lands in the village or elsewhere could not be assigned to them, is not explained by the 4th respondent.

14. The further plea in the Counter that the land being uncultivated today indicates that it was not brought under cultivation within 3 years from date of assignment is equally absurd since no material is placed on record that the subject lands were not cultivated between 1984-1987 . Also pattadar passbooks and title deeds under the A.P. Rights in Land and Pattadar passbooks Act, 1971 would not have been issued to petitioners if they had not cultivated the land.

15. I therefore reject the stand of the respondents that petitioners' land is liable to be resumed without following due process of law and is liable to be assigned to the residents of Reddy Kirshnampalli village.

16. Accordingly, both the Writ Petitions are allowed; the respondents are restrained from interfering with the possession and enjoyment of the petitioners over the subject land. It is made clear that, if the respondents intend to dispossess the petitioners from the subject land, they shall pay compensation on market value basis as per the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and then only take possession of the subject land from

the petitioners. Otherwise, they shall not be entitled to interfere with the possession and enjoyment of the petitioners over the subject land. The respondents shall pay costs of Rs.2,000/- to each of the petitioners in both the Writ Petitions.

17. Consequently, WV.MP.No.3035 of 2017 in W.P.No.10429 of 2016 and WV.MP.No.2990 of 2017 in WP.MP.No.12965 of 2017 in W.P.No.10464 of 2017, are dismissed.

18. Miscellaneous petitions pending, if any, shall stand dismissed.

19th December, 2017.
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M.S.RAMACHANDRA RAO, J

