

HON'BLE SRI JUSTICE S.V. BHATT

W.P.Nos.21608, 21957, 42096, 42185, 42210, 42214, 42215,
42219, 42242, 43723, 43809 & 44294 OF 2016, 3604, 3536, 3568,
3799, 12237, 12275, 12277, 12307 & 12320 OF 2017

COMMON ORDER:

Heard Mr.Viswanath Manoj, holding for Mr.Y.V.Prabuvu for petitioners and Mr.K.Subba Rao and Mr.Sambasiva Pratap, learned Government Pleaders for Revenue and Forest respectively.

The petitioners in the instant batch of writ petitions pray for Mandamus declaring the action of respondents in threatening to dispossess the petitioners from agricultural land in Sy.No.732 at Gogullanka, H/o Guthenadeevi Village, I.Polavaram Mandal, East Godavari District, as illegal, arbitrary and unconstitutional.

The counsel appearing for the parties have consented to disposing of the batch of writ petitions by this common order and further stated that reference to averments in W.P.No.21608 of 2016 would be sufficient for disposing of the entire batch of writ petitions.

The circumstances for consideration in this batch of writ petitions is whether the petition land is revenue or forest land. This circumstance is exactly appreciated and decided by looking at the original record. Hence, this Court directed respondents 3 to 5 to produce the record relating to subject village and survey number and ensure the presence of officers to assist the Court. The Tahsildar, I.Polavaram Mandal is present. The Forest Range Officer is representing respondents 5 and 7.

The case of petitioner in W.P.No.21608 of 2016 is that the 4th respondent through DKT patta Ref.A 1341/08 dated 08.08.2008 granted assignment in an extent of Acs.2-50 cents in Sy.No.732 of Gogullanka, H/o Guttenadeevi Village, I.Polavaram Mandal, East Godavari District in favour of petitioner. The petitioner claims to be in peaceful possession and enjoyment of the assigned land. According to petitioner, he has not violated the terms and conditions of assignment warranting interference by any of the respondents. The petitioner is in possession of assigned land viz., Sy.No.732 of Gogullanka, H/o Guttenadeevi Village. The petitioner relies upon communication dated 28.05.2016 addressed by 4th respondent to 5th respondent to contend that the subject matter of writ petition is revenue land and the operative portion reads thus:

“I invite kind attention to the reference cited.

Sri Madati Nageswara Rao, s/o Sri M.Bhairavaswamy of Gogullanka, H/o Guttenadeevi village of I.Polavaram Mandal has filed a petition (copy enclosed) before the Revenue Divisional Officer, Amalapuram stating that the Tahsildar I.Polavaram Mandal has issued land (D-form patta) in Rs.No.732 A measuring Acs.2-50 Cts and that the Forest Official has seized the proclainer on 27.05.2016 while he leveling the D-form patta land and hence requested to release the proclainer, being of SC Poor pattadar not able to pay Rs.5000/- per day.

The Revenue Divisional Officer, Amalapuram has instructed me to get classification from the Forest department officials whether the land is belongs to Forest or not.

I, therefore request to kindly clarify whether the land in R.S.No.732 A of Gogullanka H/o Guttenadeevi village, I.Polavaram Mandal belongs to Forest or not”.

The 5th respondent much earlier to the reply dated 28.05.2016 through letter dated 28.12.2015 has communicated as follows:

“From	To
R.V.Rama Rao Public Information Officer and Forest Beat Officer, Kakinada	Sri T.Murali Krishna s/o Venkatarao Bairavalanka,

Letter No.221/2015 dated 28.12.2015

Sub: Right to Information Act, 2005, As per Right to Information Act, of Sri T.Murali Krishna the information is submitted.

Ref: 1. Sri T.Murali Krishna, s/o Venkatrao
Bhairavalanka Village.

This office availability information informed the same to you the below mentioned 5064 Acres land on 28.11.1967 Rathi Kalava protection Forest land GOMs.No.2404 Food and Agriculture (Forest-III) Notify the same.

1.	Bhyravanka	S.No.99	3127.80 acres
2.	Gogolanka	S.No.99	676.43 acres
3.	Add area covered by cruks		1259.77
			5064.00

The above subject matter the above information is that your request of Sy.No.730, 731, 732 information is not available in this office. The concerned information is approached to the Revenue Department.

Forest Beat Officer
Kakinada”.

In substance, the case of petitioner is that the petitioner is in possession of assigned land in Sy.No.732, which is revenue land and respondents have fairly admitted Sy.No.732 as revenue land vide letters 28.05.2016 and 28.12.2015. Therefore, interference with petitioner's right and enjoyment by respondents in any manner is illegal, arbitrary and unconstitutional.

The 4th respondent has not filed counter affidavit but produced the following records for inspection by Court i.e., fair adangal, village map, joint inspection report and RSR of Gogullanka, H/o Guthenadeevi Village.

Mr.K.Subba Rao, on instructions from respondent No.4 and after carefully examining the village records, has stated that the then Tahsildars by name Y.Venkata Murali, and Mettu Rama Das, have played fraud, manipulated the revenue record and assigned land by detailing the assignment as Sy.No.732 of Gogullanka, H/o Guttenadivi Village. Sy.No.732 is not part of Guttenadivi Village. Sy.No.716 of Guttenadivi Village is forest land. The then Tahsildars without authority carved out Sy.Nos.717 to 732 from Sy.No.716 and assigned forest land to petitioners. He further submits that the total extent of Sy.No.716 is Acs.3128-08 Cts and classified in revenue records as 'adavi' and this Sy.No.716 is not in the administrative control of Revenue Department. For the purpose of granting assignments, the officers referred to above have carved out forest land without authority or orders from the superior officers and issued pattas to petitioners. He further submits that insofar as forest land is concerned, the Revenue Department does not have administrative or physical jurisdiction to interfere with possession or grant assignment to individuals. On the pointed query of the Court, what action the department would be initiating against the officers who are responsible for the present state of affairs, he submits that the Tahsildars have retired or no more. It is submitted that to remedy the situation the 4th respondent will forward a report to the District

Collector within four weeks from today for recalling the assignments granted in Sy.No.732 or other assignments made by carving out land from Sy.No.716 and appropriate orders will be passed. He further submits that since a few of the petitioners are also made to believe that assignments are granted in their favour in revenue land, the eligibility of assignees will be considered and to the eligible persons, assignment of revenue land will be considered subject to availability of land in the village and appropriate orders are issued. The statement of Government Pleader for Revenue is placed on record and accepted.

The stand of respondents 5 to 7 stated briefly reads thus:

Sy.No.732 is declared as Rathikalava Reserve Forest by Government of Andhra Pradesh and is under the territorial jurisdiction of Rathikalava section of Kakinada Range. The Forest Range Officer informed Tahsildar/4th respondent that pattas should not be issued in reserve forest land and requested the 4th respondent to fix up a date for joint inspection, followed by a reminder. Thereafter, joint inspection was conducted by the forest and revenue departments. The Forest Range Officer requested cancellation of the D- form pattas issued in Rathikalava Reserve Forest. However, D-form pattas were not cancelled; that 4th respondent sought clarification from District Forest Officer/ 5th respondent whether the land in R.S.No.732/A measuring Ac.2-25 Cts of Gogullanka H/o Guthendeevi Village, I.Polavaram Mandal belongs to forest department or not; and that a date was

fixed for joint inspection on 04.07.2016 but 4th respondent failed to attend the inspection.

The record produced by respondents establishes that on the one hand Sy.No.716 (forest land) is carved out without jurisdiction and authority by Tahsildar and on the other granted assignments to petitioners. The petitioners in spite of assignment orders by Tahsildar cannot and could not claim right or possession of forest land in Sy.No.716. To meet the ends of justice, the District Collector can be directed to look into the regular assignments and pass orders.

From the above discussion, it is sufficiently clear that assignment of forest land is made by changing the survey number. Therefore, the assignment cannot and could not be relied upon thus far to accept petitioner's possession of forest land in Sy.No.716. The respondents to keep the record consistent must take steps for recalling the assignments made by carving out Sy.No.716 and examine the eligibility of assignees in these assignments and grant assignments to eligible assignees from revenue land.

Therefore, the petitioners are given liberty to represent to 4th respondent for consideration of their cases for assignment of revenue land by enclosing a copy of this order within four weeks from today. The 4th respondent on the applications filed by applicant(s)/assignees(s) conducts enquiry into the eligibility for fresh assignment and if the assignees are found to be eligible, the 4th respondent forwards a comprehensive report both on the proposal for recalling the irregular/illegal assignments made in

various lands in Sy.No.716 and also to consider the cases of eligible assignees for assignment of revenue land. Since the issue is pending for long time, the respondents are directed to complete the above said exercise within two months from the date of receipt of applications from the assignees.

The exercise as directed by this Court shall be completed within a period of two months from the date of receipt of a copy of this order.

The writ petitions are, accordingly, disposed of with the above directions. There shall be no order as to costs.

Consequently, pending miscellaneous petitions stand closed.

14th July, 2017

Lrkm



S.V.BHATT, J