

THE HON'BLE SRI JUSTICE M.GANGA RAO

W.P.NO.2311 OF 2006

ORDER:

This writ petition is filed under Article 226 of the Constitution of India to declare the action of the respondents in trying to dispossess the petitioner from the land in an extent of Acs.5.33 cents situated in Sy.Nos.190/5, 180/7 and 99 of Kothapalem Village, Renugunta Mandal, Chittoor District without due process of law and making attempts to allot land to the 3rd parties without considering her application dated 07.12.2005 for regularization of the possession on payment of market value as arbitrary, illegal and consequently to direct the respondents to consider and pass appropriate orders on her application.

2. The case of the petitioner is that her father late Muneiah was in peaceful possession and enjoyment of the land in an extent of Acs.5.33 cents situated in Sy.Nos.190/5,180/7 and 99 of Kothapalem Village, Renugunta Mandal, Chittoor District, which is in their occupation since 1945 onwards uninterruptedly. Her father also paid the land cist to the Government, which clearly shows his possession and enjoyment over the said land. While so, her father died on 20.12.2004 leaving behind her as his legal heir and successor. After her father's death, she is in possession and enjoyment of the land and continuing cultivation and eking out her livelihood. During the lifetime of her father, her father represented before the respondents to regularize the land in question, but in vain. After her father's death, she made an application on 07.12.2005 to regularize her possession on

payment of the market value. In spite of repeated requests, the respondents have not considered her application for regularization.

3. While the things stood thus, the 3rd respondent came to the land on 16.01.2006, threatened to dispossess her from the land without any notice and due process of law pending application for regularization. She resisted the same but in vain. Hence, the present writ petition.

4. This court while admitting the writ petition on 10.02.2006 passed an interim stay of dispossession, without following due process of law, in WPMP No.2804 of 2006.

5. The 3rd respondent filed counter-affidavit stating that as per the revenue records, the lands in survey Nos.190/5, 180/7 and 99 of Kothapalem Village admeasuring Acs.5-33 are recorded as Assessed Waste Wet, Kalva Poramboke and grazing ground respectively as shown below:

S.No.	Extent	Classification	Status on ground
99	38.70	Grazing ground Poramboke	5.53 Old Airport road 33.17 lying waste and covered by settlement dispute Total : 38.70
180/7	0.07	Kalava Poramboke	Field Channel is existing on ground
190/5	0.13	Assessed Waste Wet	Paddy crop raised by Mekala Guruvaiah S/o.Gangaiah

The contention of the petitioner that herself and her father were in possession of the lands since long time was denied. As

per the revenue records, they were never in possession of the lands in question. All the lands are classified as government poramboke and in existence exclusively of the Government. Insofar as survey No.99 is concerned, out of total extent of Acs.38-70, an extent of Acs.5-53 is covered by Old Airport road. Remaining extent of Acs.33-17 is lying waste and covered with settlement dispute before the Joint collector-cum-Settlement Officer, Chittoor, in F6/SR/11A/2005 filed by N.K.K.Chary represented by GPAs Gangapatnam Sessaiah and Babu Rao. The petitioner was not the party claimant in the above settlement case pending before the Joint Collector. Insofar as the land in survey No.180/7 admeasuring Acs.0-07 is concerned, it is classified as 'Kalva Poramboke' and presently field channel to carry Kothapalem Tank water to irrigable wet lands is existing on the ground. The land in survey No.190/5 admeasuring Ac.0-13 is classified as Assessed Waste Wet and is occupied by Mr.M.Guruvaiah S/o.Gangaiah and the authorities have removed the said encroachment. As the petitioner or her father were never in possession of the land, the question of regularization of the land on market value would not arise. Further, the representation said to have been made on 07.11.2005 was not available in the Mandal Office and the copy of the same filed by the petitioner before this Court was taken into consideration and orders were passed by the Mandal Revenue Officer, Renigunta, vide B/122/2006 on 15.04.2006 and the same was communicated to the petitioner on 16.04.2006 under

acknowledgement. Since the lands are not under the enjoyment of the petitioner, the question of dispossession would not arise.

6. The petitioner filed the reply affidavit to the counter averments stating that the respondents have deleted her name from the possessor column of the adangal; but as on today she is in possession and enjoyment of the subject land; as the respondent-authorities are not recording her name in the possessory column since she in possession of the land she filed the photographs, which were taken on 11.11.2017 and also filed the certificate issued by the Gram Panchayat, Elamandyam Gram Panchayat, Renigunta Mandal, to prove her possession and enjoyment over the land.

7. Heard the learned counsel for the petitioner and learned Assistant Government Pleader for Revenue.

8. The counsel appearing for the petitioner submitted that the petitioner is in possession and enjoyment of the land after the demise of her father and cultivating the land and eking out her livelihood. The 3rd respondent threatened her to dispossess without due process of law. The counsel for the petitioner has drawn my attention to the order passed by the 3rd respondent in proceedings ROC No.B/122/2006, dated 15.04.2006 passed in pursuance of the orders in WPMP No.2804 of 2006 dated 10.02.2006 and contended that the petitioner's father was given Eksat Patta by the then Tahsildar, Chendragiri, on 15.10.1976 as per BSO 15(A) and thereafter lease patta was not renewed beyond 30.06.1977. The counsel for the petitioner further

submitted that after demise of petitioner's father, she is cultivating the land and is in possession and enjoyment of the same and the respondents have not initiated any legal proceedings to evict her from the land and asserted that the petitioner is in possession and enjoyment of the land. As per the certificate issued by the Sarpanch of the Yellamandya Gram Panchayat, Renigunta Mandal, and photographs filed in support of the reply affidavit, after filing the writ petition, the 3rd respondent deleted her father's name from the record and refused to enter her name in the "possession" column of the revenue records.

9. The learned Assistant Government Pleader while reiterating the averments of the counter and submitted that the petitioner is not in possession and enjoyment of the land. As per the revenue records, the names of the petitioner and her father do not found in respect of the land in question. But, the learned Assistant Government Pleader failed to show that the petitioner was evicted after following due process of law.

10. In view of the submissions of the counsel and upon perusal of the record, in the considered view of this Court the petitioner is in possession and enjoyment of the land and therefore to meet the ends of justice, the respondents are directed not to dispossess the petitioner from the land in question without following due process of law.

11. Accordingly, the writ petition is disposed of. No order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

M.GANGA RAO, J

25.01.2018
TSNR

