

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION NO.16793 OF 2006

ORDER:

This writ petition is filed challenging the action of the second respondent in threatening to dispossess the petitioner from the lands admeasuring Ac.4-40 guntas in Sy.No.186/5, situated at Nesanuru Village, Puttur Mandal, Chittoor District.

2. During the pendency of writ petition, the petitioner, D.S. Kailasam, died and his legal heirs were brought on record who are petitioner Nos.2 to 6.

3. It is the case of the petitioners that the first petitioner was assigned an extent of land Ac.4-40 cents in Sy.No.186/5, situated at Nesanuru Village, Puttur Mandal, Chittoor District, vide DKT patta No.483/4/70 issued by the then Tahsildar, Puttur on 31.12.1960. Thereafter, he brought the subject land under cultivation and was raising crops. The second respondent, after conducting enquiry, issued pattadar passbook and title deed in favour of the first respondent in respect of land Ac.4-33 cents only instead of Ac.4-40 cents. The first petitioner represented the matter to the second respondent to change the entries in his pattadar passbook and title showing the land as Ac.4-40 cents. While so, when some third parties tried to interfere over the subject land i.e., Ac.4-40 cents, the first petitioner filed a suit in O.S.No.21 of 2004 on the file of the Court of Principal Junior Civil Judge, Puttur (for short, Court below). The Court below decreed the said

suit by judgment and decree dated 09.12.2004 restraining the respondents herein from assigning the subject land in favour of third parties. During the pendency of the suit, the second respondent by his endorsement No.ROC/95/04, dated 23.10.2004, has intimated the first petitioner that his request for inclusion of land admeasuring Ac.0-07 cents would be considered only after disposal of the said suit. After decreeing the suit, the first petitioner requested the second respondent to include the land of Ac.0-07 cents, but he did not take any action. Thereafter, the second respondent called the first petitioner to his office on 02.08.2005 and threatened him to vacate the subject land. In those circumstances, the first petitioner filed the present writ petition.

4. The respondents filed a counter affidavit stating that the subject land has been resumed by the Government by following due process of law and possession has been taken on 26.10.2004. They stated that as the first petitioner violated the conditions of the patta, the assignment patta granted to the first petitioner was cancelled and possession was taken over on 26.10.2004 and the land is vested with the Government. They further stated that the subject land has been resumed for providing house sites to the poor under Indiramma Housing Programme.

5. It is to be seen that in the counter, the respondents stated that the possession of the subject land was taken over by the

Government on 26.10.2004. This is only after three days of issuance of endorsement No.ROC/95/04, dated 23.10.2004, by the second respondent to the first petitioner intimating that his request would be considered only after disposal of the said suit. The suit was decreed on 09.12.2004. It is brought to the notice of this Court that the second respondent, by proceedings in Roc.A/193/04, dated 25.10.2004, canceling the DKT patta granted in favour of the first petitioner. He also stated therein that an appeal lies before the Revenue Divisional Officer, Chittoor against his proceedings. The petitioners did not challenge the said proceedings.

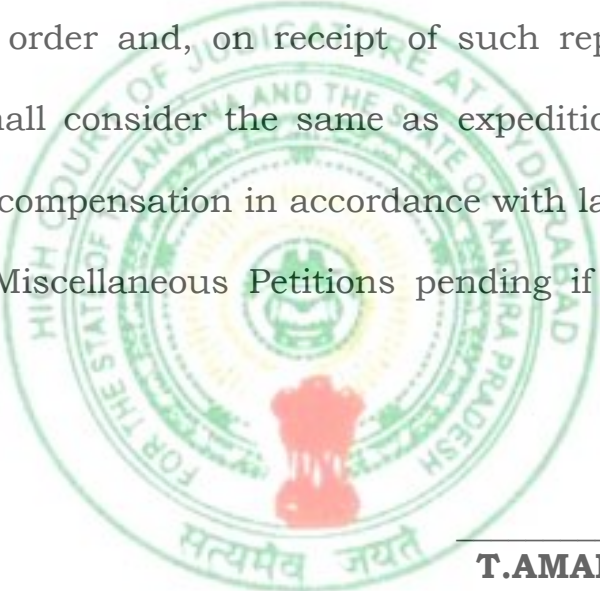
6. It is stated by Smt.Vasantha, learned Assistant Government Pleader, that the petitioners were dispossessed from the subject land and the same is resumed with the Government and that in view of the interim order of status quo granted by this Court, the subject land is lying vacant. She further stated that the Government is intending to pay compensation to the petitioners under the Land Acquisition Act.

7. In the counter, nowhere it is stated that any show cause notice has been issued to the petitioners before canceling DKT patta by proceedings dated 25.10.2004. In the facts and circumstances of this case, a reasonable apprehension can be drawn that the proceedings in Roc.A/193/04, dated 25.10.2004, are passed out of motive and are malafide one. In the affidavit filed

in support of I.A.No.1 of 2018 to receive the documents, the petitioners have disclosed as to when and how they received the said proceedings dated 25.10.2004 and, since they did not challenge the same, this Court is not inclined to decide the validity of the proceedings dated 25.10.2004.

8. In the light of the above, this writ petition is disposed of giving liberty to the petitioners to claim compensation, in the light of the offer made on behalf of the respondents, by way of a representation before the respondents within one month from the date of receipt of a copy of this order and, on receipt of such representation, the respondents shall consider the same as expeditiously as possible for payment of compensation in accordance with law. No costs. As a sequel, the Miscellaneous Petitions pending if any shall stand closed.

Date: 29.06.2018
TJMR



T.AMARNATH GOUD, J