

HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.19429 of 2007

ORDER:

This writ petition is filed seeking to declare the action of the 3rd respondent-Mandal Revenue Officer in allegedly cancelling the patta granted in favour of the petitioner's mother-in-law and granting patta in favour of the 4th respondent in respect of the same site as illegal and arbitrary. A further direction was also sought to the respondents to 1 to 3 to issue duplicate patta to the petitioner by recognizing her as a legal heir of the deceased Chilaka Ademma, W/o. James alias Yesu.

The brief facts of the case, so far as they are relevant, for the purpose of disposal of the writ petition, according to the writ affidavit, are that the petitioner's father-in-law's name is Yesu alias James and mother-in-law's name is Chilaka Ademma; the 3rd respondent-Mandal Revenue Officer issued a house site patta over an extent of Ac.0.03 cents with Plot No.110 in favour of the mother-in-law of the petitioner along with other beneficiaries in Sy.No.102/2B in the Government acquired land in Annavaram Village of Pedanandipadu Mandal, Guntur District on 11.05.1996; thereafter, the mother-in-law of the petitioner got raised iron sheet shed in the said site and all the family members of the petitioner have been residing in the said shed; the father-in-law and mother-in-law of the petitioner were residents of Annavaram Village; the father-in-law, mother-in-law, and the husband of the petitioner passed away prior to filing of the writ petition; since then, the petitioner and her son are residing in the

said site wherein an iron sheets shed was there; the petitioner also got raised a shed for cattle and cotton stems rick in the said site; the petitioner's son was studying B.Com final year; the petitioner went to Ponnur to assist her son in the last week of January, 2007; on 26.01.2007, Depala Peddaiah, S/o. Sessaiah and some others set fire to her house, cattle shed and cotton stems rick; the petitioner complained the matter to the Station House Officer, Pedanandipadu; the police officials did not take any action due to political influence; the factum of fire accident was published in the news papers also; thereafter the petitioner made an application to the Mandal Revenue Officer and others to render financial help and also take action against the persons responsible for setting fire to the house of the petitioner and no action was taken; thereafter the petitioner was advised to make an application to the Mandal Legal Services Chairman, Bapatla to direct the Mandal Revenue Officer to issue duplicate patta; Mandal Revenue Officer filed a reply admitting the grant of patta in favour of the mother-in-law of the petitioner on 11.5.1996 and stated that as the beneficiary did not construct the house as per the conditions of patta, the same was cancelled and was assigned in favour of the 4th respondent on 21.7.2005; the revenue records were manipulated; petitioner further submits that ration card was also issued in her name while she was residing in the iron sheet shed; in view of the reply given by the 3rd respondent, the Mandal Legal Services Authority advised the petitioner to file a suit; no notice whatsoever was given either to the mother-in-law of the petitioner who was the original assignee and who allegedly violated the patta conditions or to the husband of the petitioner

or to the petitioner wherein she was residing till the iron sheets shed was destroyed on 28.1.2007; the petitioner could not raise the house due to paucity of funds.

Petitioner has also filed the copy of the representation dated 27.1.2007 addressed to the District Collector, Guntur District with acknowledgment, Revenue Divisional Officer, Annavaram and the Sub Inspector of Police, Pedanandipadu Police Station; the copy of the news item published in Eenadu edition dated 28.1.2007 is also filed along with the writ petition. The copy of the voters list of Annavaram Gram Panchayat is also filed wherein the names of the father-in-law and mother-in-law of the petitioner were shown.

A counter affidavit has been filed by the 3rd respondent-Mandal Revenue Officer admitting the issuance of house site patta for an extent of Ac.0.03 cents with Plot No.110; on 11.5.1996. It is also stated that as the original assignee failed to construct the house as per the Condition No.2 stipulated in patta Government has got right to resume the plot assigned without any notice. The contention of the petitioner that she had constructed iron sheets shed in the scheduled site and living with her son and raised a shed for cattle and for storage of cotton stems etc. were denied by the respondents. Further contention that the said shed was set to fire was also denied by the Mandal Revenue Officer. It is stated that notice was issued to the petitioner in the name of her mother-in-law on 6.6.2005 through Panchayat Secretary and as no family members were available in the village, the Panchayat Secretary kept the notice on the land of the petitioner and as no explanation whatsoever has been

received from the petitioner or from any of the family members of the petitioner, the 3rd respondent has resumed the land on 21.7.2005.

The writ petition was admitted on 13.09.2007 and '*Status quo*' obtaining as on that date with regard to the possession of the property was granted. Subsequently, on 10.12.2008, the interim order dated 13.09.2007 was made absolute.

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue. None appeared for respondent No.4 and no counter has been filed on his behalf.

The learned counsel for the petitioner submits that the petitioner's mother-in-law was granted the patta and all the family members are living in the said plot after raising the iron sheets shed and after the demise of the father-in-law, mother-in-law and the husband of the petitioner, the petitioner and her son lived in the said house. Learned counsel relies upon the voters list of Annavaram Gram Panchayat to show that the father-in-law and the mother-in-law of the petitioner were residing in that village. He also submits that due to fire accident, the said shed got burnt and in support of the same, learned counsel for the petitioner relies upon the representations given to the District Collector, Revenue Divisional Officer, Mandal Revenue Officer and the Station House Officer on 27.1.2007. The copy of the acknowledgement received from the office of the District Collector dated 21.2.2007, is also filed along with the writ affidavit to show that the said representation was in fact sent to the District Collector, Guntur District. In the said representation, it is categorically stated that the petitioner and her son were residing

in the said shed till the fire accident occurred. It is the contention of the learned counsel for the petitioner that no notice whatsoever has been given to the petitioner before cancelling the assignment in favour of the mother-in-law of the petitioner.

In the counter affidavit filed by the Tahsildar, it is stated that the “notice was issued in the name of the mother-in-law of the petitioner who was the original assignee on 6.6.2005 through the Panchayat Secretary. It is revealed that the original assignee died and no family member was available in the village and as such the Panchayat Secretary subsequently kept the notice on the land. Further, as there was no explanation offered either by the original assignee or by any family members of the petitioner to the notice kept on the land of the petitioner, the 3rd respondent passed the resumption order on 21.7.2005 and took the land into the possession of the Revenue authorities.” But no documents whatsoever have been filed along with the counter affidavit to show that notice was in fact issued and served on the petitioner. When it is categorically stated that “as the original assignee died and as no family members were available in the village, the Panchayat Secretary kept the notice on the land of the petitioner”, it is surprising to note that Mandal Revenue Officer, on the other hand, has stated that the notice was served on the petitioner on 6.6.2005. It is not known as to how, when and how the notice was served on the petitioner on 6.6.2005, when no family members are available in the village.

As seen from the Xerox copies of the representations along with the acknowledgment received from the office of the District Collector, petitioner submitted a representation to the District

Collector and the authorities on 27.1.2007. It is nowhere stated in the counter affidavit that the said representation is not received by the District Collector. If at all, the land was resumed by the officials of the respondents on 27.1.2005, they ought to have intimated the same to the petitioner when she submitted the representation.

When the matter came up for hearing, learned Government Pleader for Revenue, passed on the written instructions addressed by Tahsildar, Pedanandipadu Mandal, Guntur District to the Government Pleader's office, wherein it is specifically stated that the said house plot is still vacant. The categorical statement of the Tahsildar, Pedanandipadu Mandal that the house site plot is still vacant, shows that even the 4th respondent did not construct any house in the said plot, even if it is allotted to him. Nothing is stated in the written instructions as to why the said plot is vacant, if it is allotted to 4th respondent.

According to the counter affidavit, notice was issued to the mother-in-law of the petitioner, but under law, notice in favour of a dead person is not valid. Admittedly, no notice was issued to the petitioner in her name. According to the counter affidavit of the 3rd respondent, notice was issued to the petitioner through the Panchayat Secretary, but no acknowledgment whatsoever has been filed to prove the same. This itself shows that no notice whatsoever has been served on the petitioner and no opportunity has been given to her.

Having regard to the facts and circumstances of the case, as no notice and opportunity of being heard, has been given to the petitioner before passing the resumption order on 21.7.2005,

writ petition is allowed, setting aside the resumption order dated 21.07.2005, passed by the 3rd respondent-Mandal Revenue Officer. No order as to costs.

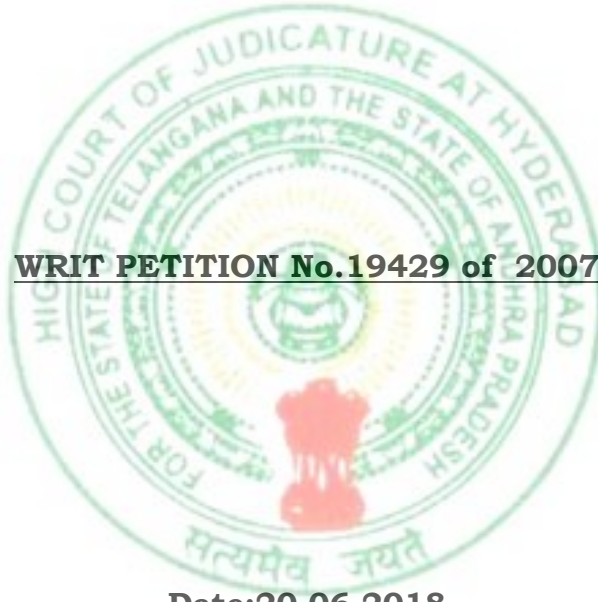
Miscellaneous petitions, if any, pending in this writ petition, shall stand closed.

KONGARA VIJAYA LAKSHMI, J

Date:20.06.2018.
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HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI



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