

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT PETITION No.4909 OF 2014

ORDER:

Petitioners seek Writ of Mandamus declaring the action of the respondents in interfering with their possession and enjoyment over the land to an extent of Ac.3.00 in Sy.No.99/E and Ac.3.01 in Sy.No.99/Aa situated at Kothwalguda Village, Shamshabad Mandal, Ranga Reddy District and threatening to demolish the compound wall raised around the said land and structures thereon on the ground that it was "Ceiling Surplus Land" in Column No.3 of Form No.22-A under Indian Registration Act by prohibiting the sale and transfer of the same through registration as arbitrary and illegal and consequently direct the respondents to delete the subject land from Column No.3 of Form No.22-A under Registration Act by rectifying the nature of land in Column No.6 of Pahani/Adangal for the year 2013 in respect of the said land as "Patta Land" instead of "Ceiling Patta"

2a) The petitioners' case in brief is that 1st petitioner is the owner and possessor of Ac.3.00 gts. and 2nd petitioner is the owner and possessor of Ac.3.01 gts. respectively situated at Kothwalguda village. The 1st petitioner purchased the same from Smt. Kiral Bala Singh through sale deed dated 21.08.2004 vide Document No.4091/2004 of Sub-Registrar Office, Shamshabad. The vendor of the petitioner purchased from S.Narayan Reddy vide registered sale deed dated 18.05.1996. Similarly, the 2nd petitioner purchased Ac.3.01 gts. in Sy.No.99/Aa under registered sale deed dated 29.07.2002 from Pogaku Jangaiah. The vendor of the 2nd petitioner was the absolute owner of the said land and he was issued

pattadar pass book in respect of the land. The further case of the petitioners is that total extent of land in Sy.No.99 is Ac.21.13 gts. and it was patta land of one Syed Mohammed Hassan and the land remains in his name in the adangal extracts. The said land was purchased by one S.Narayana Reddy and his name was mutated in the revenue record for the year 1984-85. Thereafter, one Kiran Bala Singh, the vendor of the 1st petitioner, purchased the said land from S.Narayana Reddy and from him the 1st petitioner has purchased the said land. The petitioners got draft lay out plan from the Gram Panchayat Kothwalguda in Sy.No.99 vide proceeding dated 25.10.2005.

b) While so, the 3rd respondent issued proceedings B/259/08/1 and B/259/08/2 dated 30.09.2008 for resumption of the aforesaid lands. The said proceedings were challenged in W.P.No.22768 and 22771 of 2008 and interim stay was granted therein and a direction was issued to the petitioners to file appeals before the 2nd respondent—RDO, Chevella and accordingly petitioners filed appeals vide Case Nos.D/4695/2008 and D/4696/2008 wherein orders were passed by setting aside the impugned proceedings of the 3rd respondent dated 30.09.2008. In view of the said order, writ petitions were closed.

c) The further case of the petitioners is that when they obtained Pahanies of the year 2013, they came to know that nature of land is shown as “Ceiling Patta” and showing the names of the petitioners as pattadar and possessors. Petitioners contend that the said land is recorded as patta land since 1955 onwards in the name of predecessors of the petitioners as well as petitioners. On

knowing about the wrong classification, petitioners approached the Sub-Registrar, Shamshabad and obtained copy of Form-22A wherein they found the land in an extent of Ac.6.01 gts. in Sy.No.99/1 and 2 shown as "Ceiling Surplus Land". In fact, the said land was a an assigned land and the appeals were also allowed by the 2nd respondent as stated supra.

Hence, the instant writ petition.

3. The learned Assistant Government Pleader for Assignment took notice for respondents and filed counter *inter alia* contending that the land bearing Sy.Nos.99/Aa admeasuring Ac.3.01 gts. and in Sy.No.99/E admeasuring Ac.3.00 gts. situated at Kothwalguda village is declared as ceiling land as one A.Seetharama Rao filed a declaration under Section 8(1) of A.P.Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 and after due enquiry, RDO has declared him as surplus land holder to an extent of Ac.6.03 gts. in Sy.No.99 including other survey numbers of Kothwalguda village vide CC/378/W/75. Accordingly, the land was recorded as "Ceiling Surplus Land". Therefore, the sale transactions, whatever have been taken place in respect of the said lands are null and void. Thus, it is contended that petitioners have no right to make conversion of land into plots without any conversion permission from the RDO concerned. For this reason the land cannot be treated as patta land. The RDO has not issued any orders for change of classification from "Ceiling Patta Land" to "Patta Land". The land bearing Sy.No.99 of Kothwalguda village admeasuring Ac.6.03 gts. was declared as surplus which is the present schedule land. Petitioners have no right to claim ceiling surplus land unless

and until the land is declared as non-surplus. The action of the petitioners in converting the agricultural lands into residential plots has no validity. It is further contended that though the Revenue Divisional Officer set aside the resumption orders of the Tahsildar, Shamshabad, the land cannot be treated as patta land and it is a ceiling surplus land. The Revenue Divisional Officer has not issued any order for change of classification of the land from ceiling patta land to patta land. The petitioners, thus, have no right to claim ceiling lands, unless and until the land is declared as non-surplus.

4. Heard learned counsel for the petitioners and the learned Assistant Government Pleader for Revenue appearing for the respondents.

5. At the time of hearing, learned Assistant Government Pleader produced a copy of proceedings in C.C.No.378/W/75, wherein it was held that one A.Sitharama Rao filed declaration under Section 8 (1) of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holding) Act, 1973 (for short 'Act 1973') on 10.04.1975 declaring survey numbers 50, 61 to 63, 69, 80, 81, 99, 102 and 110, measuring 191.19 guntas of land at Kothwalguda Village, Hyderabad West Taluk and Survey No.805/1, 821 (1) (new) measuring 8.00 acres owned by his wife Smt.Sarvani at Peddavigi Village of Elugu Taluk of West Godavari District. The Verifying Officer of Hyderabad West has reported that the declarant has purchased 191.19 guntas of land at Kothwalguda Village of Hyderabad in the public auction, the property of Sri Syed has computed the holding of the said lands to 3.1239 St.holding. The

Land Reform Tribunal held after enquiry that the declarant was liable to surrender the excess land under Section 10 of the Act. The copy of order in C.C.No.378/W/75, dated 15.01.1977 passed by the Land Reforms Tribunal, Hyderabad West, Hyderabad District, would further show that in pursuance to the earlier order, the declarant surrendered the following survey numbers:

Village	Sy.No.	Extent
Kothwalguda Village, Hyderabad West Taluq	50	19.63
	60	13.80
	61	11.58
	62	17.60
	63	23.33
	69	23.48
	110	20.33
	99	6.03
	102	5.59
	Total	141.37

It is mentioned in the order that the Tribunal was satisfied with the proposed surrender of the lands made by the declarant under sub-Section (4) of Section 10 of the Act, 1973, and the Revenue Divisional Officer, Hyderabad West Division, was requested to take necessary action for taking possession of the said lands as per the provisions of the Act.

6. The above proceedings submitted by the learned Assistant Government Pleader would show that the declarant A.Sithararma Rao was found in excess of ceiling land and pursuant to the said proceedings, the delcarant had surrendered an extent of 141.37 guntas of land, which includes Ac.6.03 guntas of land in Survey No.99, which is the subject matter of the writ petition.

7. Therefore, this Court finds truth in the submissions of learned Assistant Government Pleader that the subject land is a ceiling patta land, but not a patta land. Therefore, the request of the petitioners to issue a direction to the respondents to delete the subject land from column No.22-A of the Registration Act by rectifying the nature of land in column No.6 of Pahani/Adangal for the year 2013 'as patta land' instead of 'ceiling land', cannot be countenanced and the said relief cannot be granted. However, having regard to the fact that the petitioners are in possession of the subject land and the respondents have not placed any record before this Court that they resumed the land, the possession of the petitioners over the subject land should be protected till the respondent authorities undertake due process for evicting the petitioners.

8. In the result, the Writ Petition is dismissed giving liberty to the respondent authorities to take appropriate proceedings under due process of law for eviction of the petitioners. Till then, their possession, which was protected by the order, dated 20.02.2017 in this writ petition, shall be continued.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

JUSTICE U.DURGA PRASAD RAO

DECEMBER 12, 2018
YVL

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO



WRIT PETITION No.4909 OF 2014

Date:12.12.2018

YVL