

HON'BLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.24693 of 2008

ORDER:

Heard the learned counsel for the petitioners. No representation on behalf of the respondents 1 to 4.

2. The prayer of the writ petition is as under:

“ For the reasons stated in the accompanying affidavit, it is hereby prayed that this Court may be pleased to issue a writ, order or direction more particularly in the nature of writ of mandamus declaring the action of the respondents 1 to 4 in interfering with the peaceful possession and enjoyment of the petitioners in the houses at Anjaneya Nagar Colony Near Pakala Road of Sngaranyakonda Town Sngaranyakonda Prakasam District and asking the petitioners to vacate from the houses without following the due process of law, as illegal arbitrary and contrary to the principles of natural justice and consequentially to declare that the Respondents 1 to 4 have no jurisdiction to interfere with the peaceful possession and enjoyment of the houses of the petitioners at Anjaneya Nagar Colony Near Pakala Road of Sngaranyakonda Town Sngaranyakonda Prakasam District and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

3. The specific case of the petitioners is that they belong to schedule caste, schedule tribe and other backward class community and they are all houseless poor persons. The petitioners came from different parts of Prakasam District and settled at Sngaranyakonda for their livelihood. They raised huts in the government lands for their shelter and in occupation of those house sites throughout. After making repeated representations to the respondents 5 to 7 and on considering the request of the petitioners and their predecessors, an enquiry was made. On the basis of the genuineness of the claims, the respondents 5 and 6 directed the 7th respondent to give necessary house site 'D' form pattas to the

petitioners. Since then, they have been in possession and enjoyment of the same. It is also brought to the notice of this Court by the learned counsel for the petitioners that even prior to granting of 'D' form pattas, the petitioners have been in possession of their respective extents. It is also mentioned in the affidavit that the Gram Panchayat, Sngaranyakonda also dug borewells in three places for convenience of the colony for drawing water. The Gram Panchayat, Sngaranyakonda also laid cement roads for ingress and egress of the petitioners. Electricity department also provided electricity connection to the colony. The petitioners also constructed a temple, mosque and church for prayers. The Church was constructed in Plot No.11 which was allotted to the petitioner No.47. However, on 7.11.2008, at the instance of the respondents 1 and 2, the respondents 3 and 4 came to the houses of the petitioners with demolition squad and asked the petitioners to vacate the houses at Anajaneya Nagar of Sngaranyakonda on the ground that the house sites where the petitioners were given 'D' form pattas and raised houses belong to the railway department. Questioning the same, the present writ petition is filed.

4. To substantiate the contentions of the petitioners, they have filed the copies of 'D' form pattas in the material papers along with writ petition. That apart, they have also filed the ration cards issued by the revenue department.

5. Though the writ petition is filed in the year 2008, till today, no counter-affidavit has been filed either by the respondents 1 to 4 or by the respondents 5 to 7. In fact, this Court on 13.11.2018 and

16.11.2018 though there was no representation on behalf of the respondents, an opportunity has been provided enabling them to represent the matter. In spite of the same, there is no representation. In these circumstances, this Court is constrained to proceed with the matter and pass appropriate orders based on the material available on record.

6. Having heard the learned counsel for the petitioners and from the perusal of the material on record, the petitioners were granted 'D' form pattas by the 7th respondent after conducting an enquiry. Subsequent to the allotment of the subject property, the petitioners developed the same into a colony under the name and style of Anajaneya Nagar. The Gram Panchayat as well as the revenue department, provided water facility by digging bore-wells in three places of the colony. The electricity department also provided electricity connections to all the residents. The petitioners also provided with ration cards. The petitioners for the purpose of worship also constructed a temple, mosque and church for prayers. On the query raised by this Court, it is informed by the learned counsel for the petitioners that till date, the 'D' form pattas issued to the petitioners have not been cancelled. That being the position, the respondents 1 to 7, have no authority in law to disturb the possession of the petitioners on the ground that the sites which are allotted to the petitioners belong to the railway department. Though, the petitioners have placed entire material on record, unfortunately there is no evidence forthcoming from the respondents either in the form of representation before this Court or

in the form of filing counter-affidavit by enclosing any material thereto. Therefore, this Court is of the opinion that the possession of the petitioners has to be protected by issuing a mandamus to the respondents.

7. Accordingly, the writ petition is allowed directing the respondents not to interfere with the peaceful possession and enjoyment of the petitioners who are residing in Anjaneyanagar, Sngaranyakonda Gram Panchayat, Prakasham District. No costs.

Miscellaneous petitions, if any, shall also stand closed.

Date:23.11.2018
ccm



P. KESHAVA RAO, J

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