

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NO.3727 OF 2016

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioners to declare the action of the respondent No.4 in trying to evict them forcibly from their lands admeasuring Ac.3.00 cents, Ac.5.00 cents, Ac.5.00 cents and Ac.4.75 cents respectively in Sy.No.379-2, situated at Nagisettipalli Village, B.Matham Mandal, Kadapa District without conducting any enquiry and issuing any notice to them, as illegal, arbitrary and violation of principles of natural justice and also violative of Article 300-A of Constitution of India.

It is alleged that the petitioners are the absolute owners of land admeasuring Ac.3.00 cents, Ac.5.00 cents, Ac.5.00 cents and Ac.4.75 cents respectively in Sy.No.379-2, situated at Nagisettipalli Village, B.Matham Mandal, Kadapa District and they became owners by virtue of DKT pattas granted in their favour and since the date of granting DKT patta, they are continuing in possession and enjoyment of the property. In the year 2008, a detailed enquiry was conducted in respect of bogus pattas by the respondent No.4 and the petitioners lands were not found in the list prepared by him. Therefore, the respondents have no authority to cancel the pattas and prayed to grant relief stated supra.

Learned Government Pleader for State placed on record the written instructions received from the Tahsildar, B.Mattam Mandal, Y.S.R. Kadapa District, wherein it is stated that the then Tahsildar, B.Mattam has resumed the land in Survey No.379/2 extent Ac.28.22 cents of Nagisetetipali village vide proceedings

A/15/2008 dated 17.01.2008 and that the lands should be brought to cultivation and due to violation of terms and conditions i.e. failure of the petitioners to make the land fit for cultivation and use the same for agricultural purpose, the land has to be resumed and requested to pass appropriate orders.

The petitioners are the beneficiaries of assignment and the Government assigned land admeasuring Ac.3.00 cents, Ac.5.00 cents, Ac.5.00 cents and Ac.4.75 cents respectively to petitioner Nos.1 to 4 respectively in Sy.No.379-2, situated at Nagisettipalli Village, B.Matham Mandal, Kadapa District subject to certain conditions contained in DKT Patta.

One of the conditions is that from the date of assignment, the land shall be brought to cultivation personally and cultivate the same either by the petitioners and under their supervision, any of their family members. But in view of the written instructions, the petitioners failed to comply with the conditions Nos.2 and 3 of D.K.T. Pattas granted in their favour. Therefore, the land has to be resumed after cancelling pattsas. The pattas were granted in 2002 and the petitioners are allegedly continuing in possession and enjoyment of the subject lands, but the respondents are denying the cultivation of the lands, so far no proceedings are initiation for resumption of land for violation of terms and conditions of assignment i.e. patta, but the Andhra Pradesh assigned Lands (Prohibition of Transfer) Act,1977 cannot be applied to the present facts of the case since the said Act prohibits only alienations and if for any reason, the assigned lands were not brought to cultivation by the petitioners, the necessary procedure is provided under Order 15 of A.P. Board Standing Orders and concerned authorities

can take appropriate steps as per Order 15 of A.P. Board Standing Orders to resume the land after cancellation of pattas, but without cancelling pattas, the respondents cannot dispossess the petitioners. As the petitioners are in possession of the land, the respondents cannot dispossess the petitioners without following due process of law and any attempt or act of dispossessing the petitioners is also violation of Article 300-A of the Constitution of India. Hence, I find that it is a fit case to declare the action of respondents in trying to evict the petitioners forcibly from their lands is illegal. Further, the respondents are restrained from dispossessing the petitioners from the land in dispute except by due process of law, but the proposed resumption proceedings are not sufficient to take possession of the property.

In the result, the writ petition is allowed. This order does not preclude the respondents to take appropriate steps in accordance with law, if the petitioners violated any of the terms and conditions of D.K.T. Pattas granted in their favour. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

24.04.2018

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