

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

W.P.NO.22251 OF 2006

ORDER:

This writ petition is filed seeking to issue a writ of certiorari calling for the records relating to the order dated 25-05-2006 in Inam Case AIP.No.1041A/2004 SDT from the first respondent/Special Deputy Tahsildar, Inams, Visakhapatnam and set aside the same.

2. It is the case of the petitioners that they are the owners and possessors of land in an extent of Ac.7.13 cents in Sy.No.177, T.D.No.24 of Adivivaram Village, Visakhapatnam District; that one Mantha Varahanarasimha Yajulu, who was the original owner of the said land, sold the entire extent of Ac.25.38 cents in Sy.No.177, TD.No.24 in Adivivaram Village, Visakhapatnam District by a registered sale deed dated 26-04-1917 bearing document No.376/17 to Dasari Sanyasayya, who is their paternal great grand father. Since then, said Dasari Sanyasayya was in possession and enjoyment of entire extent of Ac.25.38 cents. After the death of Sanyasayya, his entire property including Ac.25.38 cents devolved on his son Dasari Venkayya and he has been in possession and enjoyment of the said land. It is stated that Dasari Venkayya died leaving behind him, his only son Dasari Soma Raju, who is father of the petitioners and that their father succeeded the estate including the land in an extent of Ac.25.38 cents. During the life time of their father he sold Ac.8.25 cents to various persons during the years 1958 to 1962. After due enquiry under the Andhra Pradesh (Andhra Area) Inams (Abolition & Conversion into

Ryotwari) Act, 1956 Ryotwari patta was granted in favour of their father in respect of Ac.12.13 cents dry land marked as Sy.No.177-A and Ac.5.00 wet land marked as Sy.No.177-B and also to the purchasers of Ac.8.25 cents vide order dated 28-08-1963 of the Tahsildar, Visakhapatnam.

3. It is further stated that on the death of the father of petitioners on 8.5.1969, the petitioners inherited the property including the land in an extent of Ac.17.13 cents and they have been in possession and enjoyment of the said property. They sold Ac.10.00 cents out of Ac.17.13 cents and after excluding the said land, they are in exclusive possession and enjoyment of the remaining Ac.7.13 cents and they raised teak wood plantation about 10 years prior to the filing of this writ petition in an extent of Ac.4.00 cents.

4. It is further stated that while so, the surviving sons and grand sons of Mantha Varahananarasimha Yajulu, executed three registered GPA-cum-sale agreements on 12-04-2006 in favour of respondents 3 to 5 in an extent of Ac.1.66 $\frac{1}{3}$ cents each covered by Sy.No.177. Immediately after coming to know about the execution of the said agreements, the petitioners issued legal notices dated 13.4.2006 to the executants and claimants and the said notices were received by them.

5. It is further stated that respondents 3 to 5 filed suits in O.S.Nos.565 of 2006, 558 of 2006 and 559 of 2006 on the file of the Court of Principal Senior Civil Judge, Vesakhapatnam for permanent injunction and that they also filed interlocutory applications in the above suits and obtained ex-parte interim

injunction orders on 19-04-2006 and that the petitioners filed counters in the said interlocutory applications. The said matters were carried to the High Court and that after hearing both parties, the High Court disposed of the appeals on 23-06-2006, with a direction to the Principal Senior Civil Judge, Visakhapatnam to dispose of the said interlocutory applications. The I.As., filed by the petitioners were allowed on 14-07-2006 and that the respondents 3 to 5 filed Civil Miscellaneous Petitions against the said orders and the same are pending before the IV Additional District Judge, Visakhapatnam.

6. It is further stated that on 17-08-2006 one Mantha Kalidas and others executed registered G.P.A-cum-sale agreements in favour of one Narala Ravikumar Reddy and others in an extent of Ac.1.00 covered by Sy.No.177 of Adivivaram village and that the petitioners issued a legal notice to the executants and claimants of the said agreements and that on 7-09-2006, they received replies that some revenue enquiry was pending. On that they enquired in the office of 1st respondent and came to know about the impugned order dated 25-05-2006, granting ryotwari patta in favour of respondents 3 to 5 under Section 7(1) of the Inam Abolition Act in Inam Case AIP.No.1401A/2004 SDT and they received a copy of the same on 18-09-2006. Aggrieved thereby, the present writ petition is filed.

7. Heard.

8. Mr.P.Roy Reddy, learned counsel for respondents 3 to 5 contended that there is no representation for the petitioners on

earlier occasions also. Since the matter pertains to the year 2006, the present writ petition is taken up for disposal.

9. Mr.P.Roy Reddy submitted that the petitioners have invoked Article 226 of Constitution of India without exhausting the effective alternate remedy available to them under Section 7(2) of Inam Abolition Act. He also relied on the judgments reported in **WHIRLPOOL CORPORATION Vs. REGISTRAR OF TRADE MARKS, MUMBAI AND OTHERS¹**, **A.V.VENKATESWARAN, COLLECTOR OF CUSTOMS, BOMBAY Vs. RAMCHAND SOBHRAJ WADHWANI AND ANOTHER²** and **SETH CHAND RATAN Vs. PANDIT DURGA PRASAD (D) BY LRS. AND OTHERS³**, wherein, the Apex Court held that existence of an adequate legal remedy was a factor to be taken into consideration in the matter of granting writs and where alternative remedy existed, it would be a sound exercise of discretion to refuse to interfere in a petition under Article 226.

10. Having regard to the facts and circumstances of the case, the writ petition is dismissed, giving liberty to the petitioners to avail the remedies available to them under law. No order as to costs. As sequel, the miscellaneous petitions pending if any shall stand closed.

T.AMARNATH GOUD,J

Date: 02-05-2018
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¹ (1998) 8 Supreme Court Cases 1

² AIR 1961 SC 1506

³ (2003) 5 Supreme Court Cases 399

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