

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.26345 OF 2007

ORDER:

This writ petition is filed to issue a Writ of Mandamus declaring the action of the respondents in dispossessing the petitioners highhandedly from the land admeasuring Ac.6.02 cents in Survey No.151 of Mulakalapenta Village, Guntakal Mandal, Anantapur District, without initiating any proceedings under Land Acquisition Act, 1894 (for short 'the Act'), as illegal.

2. The case of the petitioners is that their father late Thimmappa had purchased the land of an extent of Ac.6.02 cents in Survey No.151 of Mulakapenta Village under a registered Sale deed dated 05.08.1965. Their father was in possession and enjoyment of the land till his death in the year 1995. Thereafter, the petitioners being sons are enjoying the land of an extent of Ac.2.00 each respectively basing on oral partition. As the said land is adjacent to their village, some portion of the land is being used for keeping agricultural produce, bullock cart, cattle feed and other material by fencing around and the remaining land is used to raise vegetable crops.

It is further stated that on 06.12.2007, the first respondent along with respondents 2 and 3 tried to remove the fencing and tried to make the land into plots and

distribute the same without initiating any acquisition proceedings though they have been in possession of the land since 40 years and their names are being entered in 10(1) adangal. Hence, the highhanded action of the respondents is being challenged in this writ petition.

3. This Court, while admitting the writ petition on 13.12.2007, granted interim stay in WPMP No.34364 of 2007.

4. The respondents filed counter stating that on 06.12.2007, the Tahsildar along with Mandal Surveyor, Guntakal and Village Revenue Officer, Mulakalapenta had visited Mulakalapenta Village to find out the Government lands. After thorough verification of Adangal (Account No.3), Re-settlement Register (Account No.1) and Field Measurement Book of Konganapalli Village, it came to light that the land in Survey No.151 admeasuring Ac.4.12 cents was acquired for house sites to the weaker sections of Mulakalapenta Village vide Award No.2/75-76, dated 22.04.1977 and Sub-Division 8-A No.68/86, dated 29.05.1977. On ground, the S.C. colony is existed in Survey No.151-1 of Mulakalapenta H/o.Konganapalli Village. Basing on the record, they measured the area. The pattadars of land in Survey No.151-2 prevented to measure the land in Survey No.151-1 of Mulakalapenta H/o.Konganapalli Village. The Survey No.151 measuring Ac.10.02 cents is a patta land. One Rachuri Erappa had purchased Ac.4.00 of land in Survey No.151 from

Erasani Rangappa vide registered Document No.1206/1965, dated 19.07.1965 as per Encumbrance certificate issued by Sub-Registrar, Gooty, Anatapur. Thereafter, the petitioners' father Thimmappa had purchased the remaining Ac.6.02 cents of land in Survey No.151 from Erasani Rangappa vide registered Document No.1281/1965, dated 05.08.1965 as per the Encumbrance certificate issued by the Sub-Registrar, Gooty. They have verified the boundaries of land in an extent of Ac.6.02 cents in Survey No.151 of Mulakalapenta Village. The Survey No.151 was sub-divided as 151-1 admeasuring Ac.4.12 cents and 151-2 admeasuring Ac.5.90 cents. But, on ground, it is as Survey No.151-1 admeasuring Ac.4.00 and Survey No.151/2 admeasuring Ac.6.02 cents. The then officers might have incorporated wrong extent as Ac.4.12 cents instead of Ac.4.00 and Ac.5.90 cents instead of Ac.6.02 cents. The land of the petitioners comes under Survey No.151-2 admeasuring Ac.6.02 cents, which is a patta land and no attempt is made or no proposals have been initiated to acquire the land of the petitioners and in fact the petitioners are in peaceful possession and enjoyment of their land. The respondents are not disturbing the possession of the petitioners.

5. Sri S.Lakshmi Narayana Reddy, learned counsel for the petitioners would contend that the land in Survey No.151-2 admeasuring Ac.6.02 cents of Mulakalapenta Village is a patta land. The petitioners inherited the same from their

father who had purchased the same vide registered Document No.1281/1965, dated 05.08.1965 and after demise of their father in the year 1995, they were orally divided the land and they are in possession and enjoyment of the land to an extent of Ac.2.00 each and the respondents are highhandedly trying to dispossess the petitioners from the land without following due process of law. Hence, the learned counsel sought a direction to the respondents not to dispossess the petitioners without following due process of law.

6. The learned Assistant Government Pleader has not disputed the contentions raised by the learned counsel for the petitioners and stated that there is no need to acquire the land in Survey No.151-2 and the petitioners are in peaceful possession and enjoyment of the property. It is further stated that the respondents have not taken any steps to disturb the possession of the petitioners.

7. Recording the submissions at Para 8 of the counter filed by the Tahsildar, Guntakal Mandal and recording the contentions of the learned Assistant Government Pleader, the writ petition is disposed of directing the third respondent not to interfere with the petitioners' possession and enjoyment over the land to an extent of Ac.6.02 cents in Survey No.151/2 of Mulakalapenta H/o.Konganapalli Village and not to dispossess them from the said land without following due process of law. No order as to costs.

8. Miscellaneous Petitions, if any, pending in this Writ
Petition shall stand closed.

JUSTICE M.GANGA RAO

23-03-2018
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