

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT PETITION No.33506 of 2013

ORDER:

Petitioner seeks a Writ of Mandamus declaring the inaction of the respondents in considering the request of the petitioner for grant of assignment/patta in respect of land in Sy.No.213/3 in an extent of Ac.4.00 cts. situated at Takkalapalli Village, Ananthapur Rural and Mandal, Ananthapur District as illegal, arbitrary and consequently direct the respondents to grant assignment/patta in respect of the aforesaid land.

2) The petitioner's case in brief is that the 3rd respondent issued proceedings in Rc.No.A/464/90 dated 31.03.1990 granting Eksal temporary cultivation permission to cultivate Ac.4-00cts of land in Sy.No.213/3 in favour of petitioner's husband—late Venkata Ramudu on an application made by him. The said permission was extended by 3rd respondent from time to time. Subsequently the 3rd respondent issued another proceedings in R.Dis.No.562/1993 dated 10.11.1993, permitting the petitioner to raise trees in the aforesaid land by paying cist to the Government. Accordingly, the husband of the petitioner was in possession of the land by cultivating and also by raising the trees thereon. When some unscrupulous persons tried to interfere with his peaceful possession and enjoyment, he filed suit—O.S.No.628 of 2004 before the Additional Junior Civil Judge, Ananthapur seeking perpetual injunction and the said suit was decreed on 31.05.2010 in his favour. The respondents 2 and 3 herein are also made parties to the said suit. While so, the husband of the petitioner made a representation on 08.12.2012 to the 3rd respondent requesting him to grant

assigned/patta in respect of aforesaid land. Pending the said representation, the husband of the petitioner died on 01.01.2013 leaving behind the petitioner and her children. They are very poor and unless the respondents grant patta in their favour, they cannot get livelihood. The respondents, so far, have not passed any order considering the representation made by the husband of the petitioner.

Hence, the instant writ petition.

3) Respondents filed counter and opposed the petition *inter alia* contending that Eksal permission was issued to R.Venkata Ramudu by the 3rd respondent in A/464/90 dated 31.03.1990 for temporary cultivation for one year only and subsequently the said permission was not extended as claimed by the petitioner. The lessee had not applied for the same and subsequently Eksal permission stood vacated. It is true permission was also granted to plant the trees with some conditions on 10.11.2013. However, the deceased husband of the petitioner failed to plant the trees over the schedule land and thus violated the conditions of licence. The cist was paid only in respect of certain Faslis but not regularly. The respondents further contended, as can be seen from the record of the 3rd respondent, no representation dated 08.12.2012 was traced out. They further contended that Eksal permission was granted only one year and thereafter when the husband failed to raise the trees and violated the conditions, show clause notice was issued to him. However, he failed to submit explanation and even not attended on hearing date. Petitioner's family members are not in physical possession of the land as they left the land fallow.

4) When the matter came up for hearing, learned Government Pleader for Assignment would submit that so-called representation dated 08.12.2012 said to be submitted by the husband of petitioner is not available with the respondent and therefore, the question of considering the same did not occur till now. He would further submit that petitioner's family members are not in possession of the suit land.

5) On the other hand, learned counsel for petitioner would submit that the petitioner's family members are very much in possession of the said land and in fact they filed O.S.No.628 of 2014 when the third parties tried to meddle with their possession and obtained perpetual injunction decree.

6) Having regard to the above respective submissions, this Court is of the considered view that the petitioner can submit a fresh representation for considering her case and to pass an appropriate order.

7) In the result, this Writ Petition is disposed of with a direction to the petitioner to submit a fresh representation to the 3rd respondent within four(4) weeks from the date of this order, in which case, the 3rd respondent shall pass an order on merits within eight (8) weeks thereafter. No costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 22.11.2018

Note: Issue C.C by tomorrow.

(b/o)
Murthy