

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.26538 of 2016

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner requesting to issue a writ of mandamus declaring the action of the 3rd respondent in trying to interfere with the petitioner's possession over the land of an extent of Ac.4.00 cents, in Survey No.84, situated in Tippayapalle Village, Orvakallu Mandal, Kurnool District, by cancelling the Patta bearing No.284 of the petitioner, at the instance of the respondents 4 to 6 and without following the procedure contemplated under law, as illegal, arbitrary and violative of principles of natural justice and fair play. A consequential direction to the respondents not to interfere with the peaceful possession and enjoyment of the petitioner over the subject land, without following the due process of law, is also sought.

2. I have heard the submissions of Sri *B.Nitesh*, learned counsel appearing for the petitioner, of the learned Government Pleader for Revenue (A.P.), appearing for the respondents 1 to 3; and of Sri *J.Janaki Rami Reddy*, learned counsel appearing for the respondents 4 to 6. I have perused the material record.

3. The case of the petitioner is this: The husband of the petitioner was given the subject land under a patta, a copy of which is filed along with the material papers. After the death of her husband, she was given pattadar passbook; and, the property was mutated in her name in the revenue records. The same is evident from the copy of the pattadar passbook as well as the title deed book, 1 B. Namoon (ROR) and the copies of pahanies or adangals, which are also filed with the material papers. The grievance of the petitioner is that at the behest of the unofficial respondents, the official

respondents are trying to evict her from the subject land, without following the procedure established by law.'

4. Though a counter affidavit has been filed by the Tahsildar, Orvakallu Mandal, Kurnool District, the 3rd respondent herein, in the said counter, self contradictory statements were made. In the Counter, at one place, it is stated that till now, no notice is issued to the petitioner in the matter from the office of the 3rd respondent and that the petitioner and her son are cultivating the land and that the petitioner is in continuous possession and enjoyment of the subject land. And, at another place in the counter affidavit, it is stated that since beginning, the land was not brought under cultivation by the petitioner and her husband and that the enquiry revealed that the petitioner is not in enjoyment over the land, but one Fouzia Bee is enjoying the land without any pattadar passbook and title deed. The very inconsistent and self-contradictory allegations in the counter affidavit show that the Government officers are not inclined to bring their correct stand to the notice of this Court. Be that as it may.

5. Learned counsel for the unofficial respondents 4 to 6 and the learned counsel for the petitioner are in agreement that if the writ petition is disposed of directing the official respondents not to interfere with the peaceful possession and enjoyment of the petitioner over the subject land, except by following the procedure established by law, the ends of justice would be met.

6. Having regard to the facts and submissions, the Writ Petition is disposed of directing the official respondents not to interfere with the peaceful possession and enjoyment of the petitioner over the subject land, except by following the procedure established by law.

There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.

M.SEETHARAMA MURTI, J

Date: 9th July, 2018

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