

**HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE P. KESHA RAO**

WRIT APPEAL No. 1083 of 2017

JUDGMENT: (Per the Hon'ble Sri Justice P. Keshava Rao)

Heard the learned counsel for the appellants and the learned Government Pleader for the respondents.

The present writ appeal is filed against the orders dated 14.07.2017 passed in W.P.No.22856 of 2017 dismissing the writ petition seeking a mandamus to respondents 3 to 5 not to interfere with the alleged possession and enjoyment of the appellants in respect of the subject lands.

The facts in brief are that the appellants are residents of Kondlapudi village, Nellore Rural Mandal, SPSR Nellore District. They are all landless poor persons. Bezawada Kumaraswamy Reddy and Bezawada Phaniraja Prasanna Reddy of Kondlapudi village were declared surplus landholders under Section 8(1) of A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 to an extent of about Ac.40.00 cents in Sy.Nos.178 to 183 and 404 of Kondlapudi village. The appellants being the landless poor persons approached the revenue authorities to assign the said lands in their favour and pending assignment, the appellants were asked to cultivate the said lands and accordingly they are doing so for the last 12 years. On the representation of the Secretary, Communist Party of India, Nellore District, the appellants are assured of irrigation source to the above said lands under the lift irrigation scheme through MPLADS. Though the appellants submitted several representations to the respondents 3 and 4 to grant D-form pattas in their favour, the same were not acted upon.

It is also the case of the appellants that they are doing the joint farming and raised lemon garden in the year 2013 apart from other crops. On 29.06.2017 the 3rd respondent along with the 5th respondent visited the lands in question and informed them that they are going to lay plots to assign the same to the members of Nayi Brahmana Sangam for house sites. In those circumstances, the writ petition was filed. Per contra, the Assistant Government Pleader on instructions submitted that the subject land is only Ac.33.90 cents but not Ac.40.00 cents. There is a cultivation in an extent of Ac.5.76 cents only leaving Ac.26.17 cents as vacant land and Ac.1.97 cents covered by road. The said instructions do not admit that the appellants are in possession of the said extent of land or raised any crop even in respect of Ac.5.76 cents. Basing on the said instructions and after considering the merits in the case, the learned single Judge, was pleased to dismiss the writ petition by orders dated 14.07.2017. Aggrieved by the same, the present writ appeal is filed.

Learned counsel appearing for the appellants, reiterated the contentions raised in the writ petition and submitted that funds were sanctioned from MPLADS and under CDP from MLC funds, bore-well was dug, motors are fixed and pipeline was laid from Nellore tank etc.

After hearing the learned counsel for the appellants and from the perusal of the material on record, though the appellants have categorically pleaded that they are in possession of the subject land and cultivating the same by raising various crops, have not placed any evidence before the Court that they are cultivating the lands. On the other hand, admittedly the subject land being the

surplus land declared under the provisions of A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, it vested in the government. When the said land is not assigned in favour of the appellants, they cannot claim that the revenue authorities permitted them to cultivate the same pending assignment. On the other hand, the instructions placed before the Court by the Assistant Government Pleader, negate the contentions of the appellants and establish that they are not in possession of the subject lands. It is relevant that the cultivation is only in an extent of Ac.5.76 cents and even for that extent also the appellants are not in possession. That being so, on mere assertions that the appellants were asked to cultivate the land and on the basis of the photographs, the possession of the appellants cannot be accepted. When the respondents are taking steps to provide house sites to the displaced persons who are in need of houses under the ceiling surplus land, the appellants cannot put up a claim in respect of the said land on the ground that they were asked to cultivate the lands pending assignment. In these circumstances, this Court is of the opinion that there is no irregularity or illegality in the orders passed by the learned single Judge in dismissing the writ petition.

Accordingly, the writ appeal is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, shall also stand dismissed.

THOTTATHIL B. RADHAKRISHNAN, CJ

P. KESHA RAO, J

Date: 24.08.2018
CCM

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WRIT APPEAL No. 1083 of 2017

(Order of the Bench delivered by the
Hon'ble Sri Justice P. Keshava Rao)

Date: 24.08.2018

CCM