

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.6234 OF 2012

Date: 28.02.2018

Between :

Kotham Reddy Praveen Kumar Reddy,
S/o Gopal Krishnam Reddy, Aged about 52 years,
R/o D.No.3-23, Apollo Castel, Canal Road,
Thiruvan Meyur, Chennai, rep.by GPA holder,
Rachamalli Ramesh, s/o.Varadaiah,
r/o. Nellore, Nellore District and others.

.... Petitioners

And

The Govt.of Andhra Pradesh, rep.by
District Collector, Nellore, SPSR Nellore
District, A.P., and others.

.... Respondents



This Court made the following :

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ORDER:

No representation on behalf of petitioners.

2. Petitioners in the writ petition sought for direction to restrain the respondents from dispossessing the petitioners from occupation of land in Sy.No.3/98, 3/115 and 3/116 of Mettampadu village, Amamcharla Gram Panchayat, Nellore Rural Mandal. It is averred in paragraph-11 of the affidavit filed in support of writ petition that similarly situated individuals concerning land in same survey number earlier filed W.P.Nos.32684 of 2011 and 426 of 2012 and this Court granted interim orders of *status quo* and that petitioners herein are also entitled to similar relief.

3. Following earlier order, this Court also granted *status quo* in the present writ petition. Praying to vacate the *status quo* order, unofficial respondent filed vacate petition.

4. When the matter is taken up for consideration, learned counsel representing 4th respondent produced copy of order in W.P.Nos.32684 of 2011 and 426 of 2012 and contended that subject matter of writ petition is covered by the said decision.

5. The prayers sought in the above writ petitions, extracted in the said order, disclose that subject matter of said writ petitions concern the land in Sy.No.1P of Mattempadu Village, Nellore Taluk, which is subsequently assigned Sy.No.3 of said village. On

consideration of the matter, this Court passed following order in W.P.Nos.32684 of 2011 and 426 of 2012:

“This Court is of the view that a Court of law presumes possession in favour of a party or refuses to presume physical and actual possession in respect of property, from a particular state of pleadings and the proof placed on record on the case pleaded by a party. Now petitioners claim to be in actual and physical possession and at the same time unofficial respondents contest their claim and assert that they are in actual and physical possession of the property by reference to various proceedings and orders. In view of these assertions and denials, this court is of the view that a disputed question of fact on the actual and physical possession between the parties namely the petitioners and unofficial respondents arises for consideration, having regard to the scope of enquiry undertaken by this Court in this behalf, the writ remedy between petitioners and unofficial respondents is misconceived.

By leaving this aspect of the matter open for consideration in suit instituted by a party by the competent court, the writ petitions are disposed of.”

6. Following the said decision, this Writ Petition is also disposed of in the same terms.

Miscellaneous petitions if any pending in this writ petition shall stand closed. No costs.

JUSTICE P.NAVEEN RAO

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