

THE HON'BLE SRI JUSTICE P.KESHA RAO

WRIT PETITION NO.672 OF 2006

ORDER:

Heard the counsel for the petitioners as well as the respondents.

The prayer in the Writ Petition is as under.

“...to issue an order, writ or direction more particularly in the nature of Writ of Mandamus declaring the action of the respondents in trying to take forceful possession of the land belonging to the petitioners pending the application filed before the Land Reforms Tribunal, Nellore dated 05.05.2005 for rectification of the mistake under Rule 16(5) of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Rules, 1974, as illegal, arbitrary, unjust and without jurisdiction and consequently direct the first respondent to consider the application submitted by the petitioners, and pending the same, not to take any coercive steps for forceful surrender of the lands, and pass such order or orders that the Honourable Court may deem fit and proper in the interest of justice.”

The facts of the case are that the petitioners herein are declarants in C.C.Nos.1908 and 1912 of 1975 before first respondent-Land Reforms Tribunal, Nellore. While the declarations were being filed, due to oversight instead of Ac.10.80 cents, the petitioners have shown Ac.18.23 cents as belonging to them. The total extent of Survey No.1162 of Surveypalli Bit-II Village is Acs.21.55 cents. Out of the said total extent, the petitioners own an extent of Acs.10.80 cents. One Mylapur Venkateswarlu declarant in C.C.No.1909/NLR/75 owns Ac.7.43 cents and another person by name Pelluru Sudhakar Reddy and his family members own an extent of Ac.3.42 cents.

Though the petitioners ultimately own Ac.10.80 cents, while computing the holding, an extent of Ac.18.23 cents has been shown to the holdings of the petitioners.

In the orders dated 28.09.1976 it was shown that they have surrendered Ac.7.43 cents and it was shown as a surplus in the holdings of the petitioners. Against the same, the said Mylapur Venkateswarlu preferred an appeal vide LRA.No.5 of 1990 on the file of the Land Reforms Tribunal, Nellore questioning the above said orders accepting the surrender of Ac.7.43 cents by us. After hearing, the said appeal was allowed by orders dated 13.08.1998 declaring the said Mylapur Venkateswarlu as absolute owner of Ac.7.43 cents and it was correctly computed to his holding.

However, to the surprise of the petitioners, they have received a notice on 03.08.2005 from the first respondent, directing them to surrender an alternative land in view of the orders dated 13.08.1998 of the Land Reforms Appellate Tribunal and also asking the proposals intimating the alternative lands within fifteen days which the Government would take possession of the lands belonging to the petitioners. In reply to the said notice dated 03.08.2005, the petitioners have submitted a detailed explanation dated 29.09.2005, particularly stating that even after exclusion of the above extent, the petitioners will be non-surplus holders. Though the explanation has been submitted on 29.09.2005, no orders have been passed. However, on 06.01.2006, the second respondent called the petitioners to his office and directed them to surrender the alternative lands

forthwith. The petitioners also filed an application/petition under Rule 16(5) of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Rules, 1974 ("the Rules 1974" for brevity) before the first respondent for deletion of Ac.7.43 cents in Survey No.1162 of Surveypalli Bit-II Village from their holdings in C.C.Nos.1908 and 1912/NLR/75. Since the petitioners are sought to be dispossessed without there being any orders on the said application/petition as well as in pursuant to the detailed explanation submitted to the notice dated 03.08.2005, the present Writ Petition is filed.

Though the Writ Petition is filed in the year 2006, no counter affidavit has been filed by the respondents till date.

Learned Government Pleader appearing for the respondents would contend that orders will be passed on the notice dated 03.08.2005 in the light of the explanation submitted by the petitioners on 29.09.2005 and also on the application/petition filed under Rule 16(5) of the Rules, 1974 within two (2) months from the date of receipt of a copy of this order.

Taking into consideration the submissions made by the learned Government Pleader, the first respondent is hereby directed to pass appropriate orders on the application/petition filed under Rule 16(5) of the Rules, 1974 as well as notice dated 03.08.2005, within a period of two (2) months from the date of receipt of a copy of this order.

With the above said observation, the Writ Petition is disposed of. However, it is made clear that till the orders are

passed on the said application/petition and the notice dated 03.08.2005, the respondents are directed not to take any coercive steps. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(P.KESHAVA RAO, J)

9th February 2018
RRB

