

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.20056 OF 2007

ORDER

This writ petition is filed seeking to issue a Writ of Certiorari calling for the records relating to and connected with the impugned proceedings No.D/5/31/74/2007, dated 18.08.2007 issued by the 1st respondent as illegal, arbitrary and contrary to the provisions of A.P. Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act') and set aside the same.

Heard Sri E.Madan Mohan Rao, learned counsel appearing for the petitioners and learned Government Pleader for Revenue appearing for respondents 1 and 2 and Sri J.Ram Mohan Rao, learned counsel appearing for the contesting respondents.

It is the case of the petitioners that they have purchased the lands from one Gulam Ghouse Ansari way back in 1969 and 1974. The said Ansari was the inamdar of the lands. The petitioners, in all, had purchased Ac.20.04 guntas in Sy.Nos.594, 603 and 606 of Lemoor Village, Kandukur Mandal, Ranga Reddy District. As on the crucial cut off date of 01.11.1973, the petitioners are in possession and the settlement officer has granted occupancy rights in favour of

the petitioners on 31.10.1983 and since then they are in peaceful possession and enjoyment of the said lands. It is the further case of the petitioners that the father of the un-official respondents had claimed the said lands as a protected tenant and he has filed an appeal against the order of granting occupancy rights in favour of the petitioners during 1990. The said appeal preferred by the father of the un-official respondents was dismissed for default on 07.08.1990, against which, father of the un-official respondents had preferred W.P.No.15931 of 1990 before this Court and this Court had disposed of the same *vide* order dated 17.4.1997 to re-consider the appeal preferred by the father of the un-official respondents and pass appropriate orders. It is the further case of the petitioners that no orders have been passed on the appeal preferred by the father of the un-official respondents nor the un-official respondents have pursued the said appeal and the said appeal has not seen light of the day till date. Further, in pursuance of the occupancy rights granted in their favour on 31.10.1983, the petitioners have approached the revenue officials for grant of pattadar pass books and the revenue authorities after conducting a detailed enquiry, granted pattadar pass books in favour of the petitioners on 6.9.1989. The father of the un-official respondents preferred a

revision under Section 9 of the Act, 1971 before the Joint Collector, who in turn, allowed the said revision on 18.4.1998. Aggrieved by the same, the petitioners filed W.P.No.34511 of 1998 and this Court set aside the impugned order dated 18.4.1998 and remanded the matter to the Joint Collector to pass orders afresh after considering the entire case on merits, after affording an opportunity to the parties. In pursuance thereof, the Joint Collector once again considered and passed order on 18.08.2007, which is impugned in this writ petition. The Joint Collector without application of mind has mechanically passed the order directing the petitioners as well as the un-official respondents to apply for the occupancy rights certificates before the competent authority and thereafter, approach the revenue authorities for relief under the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971. The 1st respondent failed to appreciate that the petitioners were already granted occupancy rights certificates way back in 1983 i.e., on 30.10.1983 and the father of the un-official respondents has challenged the said grant of occupancy rights certificates in favour of the petitioners by filing an appeal and the said appeal was dismissed for default on 7.8.1990 and thereafter, the father of the un-official respondents though filed WP No.15931 of 1990, and obtained

favourable orders from this Court on 17.4.1997, had not pursued his remedies for restoration of the said appeal and the said appeal has not seen the light of the day till date. The Joint Collector duty is only to ensure when once the occupancy rights certificates were rightly granted in favour of the petitioners by the competent authority *vide* proceedings dated 31.10.1983, the only issue which has to be examined is as to whether the revenue authorities have rightly granted pattadar pass books in favour of the petitioners or not. The petitioners were granted pattadar pass books on 6.9.89.

Learned counsel for the contesting respondents contends that occupancy rights certificates were granted illegally by the competent authority under the Inams Abolition Act and if the petitioners were not rightly granted occupancy rights certificates under Inams Abolition Act, then the un-official respondents should pursue their remedies under the very same Act, but they cannot prevent the revenue authorities from issuing pattadar pass books in favour of the petitioners.

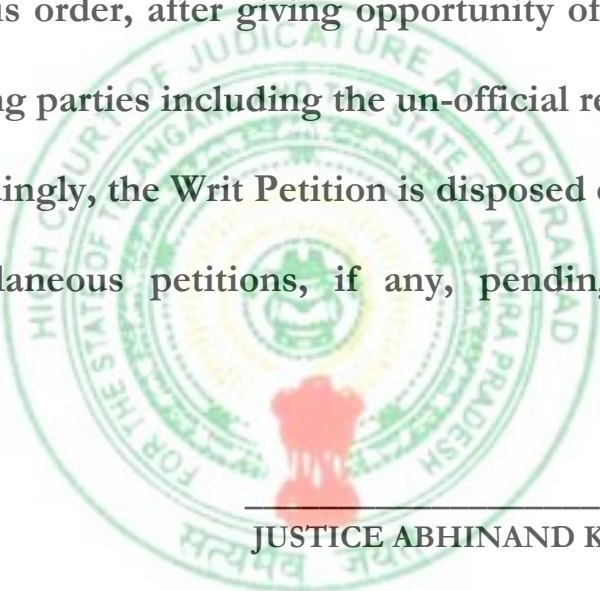
When once the petitioners are armed with occupancy rights certificates under Inams Abolition Act, the Joint Collector must take that factor alone into consideration and pass appropriate orders without looking into the fact whether

the petitioners were rightly granted occupancy rights certificates under Inams Abolition Act for which he is not the competent authority.

In view of the facts and circumstances of the case, the matter is remitted back to the Joint Collector to examine the issue only from the point of view of the A.P. Rights in Land and Pattadar Pass Books Act, 1971 and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order, after giving opportunity of hearing to all the contesting parties including the un-official respondents.

Accordingly, the Writ Petition is disposed of. No costs.

Miscellaneous petitions, if any, pending shall stand closed.



JUSTICE ABHINAND KUMAR SHAVILI

16th March, 2018

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