

HON'BLE SRI JUSTICE S.V. BHATT

W.P. No.21419 OF 2018

ORDER:

Heard Mr.Jyoti Prasad for petitioners, the learned Assistant Government Pleader for Revenue and Mr.Durga Prasad for respondent No.7.

The petitioners were assigned house plots in an extent of Ac.0-01½ cents each in Survey Nos.77/3 and 78 in Brahmanagudem Village, Chagallu Mandal, West Godavari District. The petitioners challenge the action of respondents in either interfering with petitioners' possession or threatening the petitioners to vacate from the respective plots by filing the instant writ petition.

The counter affidavit filed by 4th respondent relieves this Court from referring to the allegation in the affidavit. The 4th respondent does not dispute the assignment made in favour of petitioners, but on subsequent verification when it comes to the notice of respondents, the assignments in favour of a few of the petitioners are declared as ineligible.

The operative portion of the stand taken in the counter affidavit is excerpted:

“ In reply to para 2 and 3 of the petitioners affidavit, I humbly submit that it is not true that all the petitioners are the absolute owners, possessors and enjoyers of the house sites admeasuring Ac.0.01 ½ Cts each covered by Survey number 77/3 and 78 situated in Brahmanagudem Village, Chagallu Mandal and it is also not true that from the date of issue of house site pattas, they were inducted into possession and continuing in possession thereof by constructing thatched houses in their respective house

sites because since the enquiry of the team of Village Revenue Officers constituted by the 4th respondent i.e. Tahsildar, Chagallu it is noticed that the 1st, 3rd, 6th, 9th, 10th, 13th petitioners were found eligible and issued fresh pattas with plot numbers 103, 107, 55,145, 161, 20 respectively. The 2nd, 4th, 7th, 8th petitioners were having own houses in the village, hence kept ineligible. The 11th petitioner, left the village, hence sorted into ineligible. The 5th and 12th petitioners are listed out into the ineligible category since they are single members.”

From the above, it is clear that the 4th respondent admits the eligibility of 1st, 3rd, 6th, 9th, 10th and 13th petitioners and proposes to issue fresh house sites to them. The cases of petitioner Nos.2, 4, 5, 7, 8, 11 and 12 are kept ineligible list. Mr. Jyoti Prasad contends that at the time of assignment the eligibility criteria of these petitioners was examined and were found to be suitable for assignment of house plots. According to him, the annexures filed by 4th respondent do not in any way refer to affording opportunity to these petitioners before firstly, it could be concluded that they are ineligible and secondly the assignments are cancelled. In other words, the entire exercise vis-à-vis these petitioners is violative of principles of natural justice and arbitrary. He prays for affording opportunity to petitioner Nos.2, 4, 5, 7, 8, 11 and 12 to establish that they are entitled for continuation of assignment already made in their favour. Keeping in view the prayer and also the admitted circumstances, the writ petition is disposed of by this order:

Petitioners are given liberty to file representation before 4th respondent for confirmation or continuation of assignment in their favour. The 4th respondent is directed to furnish the

information, if any, on the eligibility of petitioners within one week from the date of receipt of representation from the petitioners. The petitioners, if they choose so, can file further documentary evidence or explanation on the material given by 4th respondent within two weeks from receipt of material/information. The 4th respondent passes orders within six weeks from today. The parties are directed to maintain *status quo* as regards these house plots for a period of six weeks.

No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

Date:30.07.2018
Sp



S.V.BHATT, J