

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT PETITION No.6277 OF 2014

ORDER:

The petitioners seek writ of mandamus declaring the notice No.A/267/2013, dated 'Nil-' issued by the respondent No.3 for causing enquiry with regard to the possession of the petitioners over the property bearing survey No.87 in an extent of 5 Acres each situated at Tumriguda, Asifabad Mandal, Adilabad District, basing on the representation made by the respondent No.4 and others dated 25.02.2014 as illegal, without jurisdiction and contrary to A.P. Scheduled Area Land Transfer Regulations, 1959 (for short, 'APSALT Regulations, 1959) and Rules made there under and consequently, set aside the same and pass other orders which are deemed fit in the circumstances of the case.

2. The petitioners case, in brief, is that:

(a) They are brothers and landless poor persons and residents of Ankusapur Village, Asifabad Mandal, Adilabad District and they belong to Backward Class Community. They occupied and in enjoyment of the land in Survey No.87 in an extent of 5 Acres each situated in Tumriguda Hamlet of Ankusapur Village, Asifabad Mandal, Adilabad District. About 30 years back, their father Hivure Raju occupied about 10 Acres of Government Land (dry) in Survey No.87 and he developed the land by putting his concerted efforts and

cultivated the same and later, he died. After his death, the petitioners have been enjoying the said land and raising commercial crops.

(b) The further submission of the petitioners is that Tumriguda Hamlet of Ankusapur Village is a notified village in Adilabad District. While so, respondent No.4 and others developed grudge against the petitioners and they filed a representation dated 25.02.2013 to the respondents 2 and 3 alleging as if the petitioners were forcibly cultivating the Government land. Those allegations are false and on the other hand, the revenue records i.e., Cist receipts issued for year 1981-1982 and the subsequent years would show that the petitioners have been in continuous possession and enjoyment of the lands and paying Cist to the Government. Basing on the aforesaid false representation, respondent No.3 issued notice No.A/267/2013, dated 'Nil-' directing the petitioners to attend for an enquiry to be held on 20.11.2013. Subsequently, respondent No.3 issued another notice No.A/267/2013, dated 17.12.2013 directing them to attend the enquiry on 02.01.2014. The petitioners requested the respondent No.3 to furnish the copy of representation submitted by respondent No.4 and others, but respondent No.3 has not furnished the same. The petitioners have produced the relevant records showing their possession and enjoyment over the property. However, the respondents 3

and 4 have not considered the same and they firmly decided to evict the petitioners and distribute the pattas to the tribals. The petitioners have not caused any contravention of APSALT Regulation, 1959.

(c) It is further submitted that in order to protect the interest of the landless non-tribals who are in occupation of the lands in scheduled areas, the State Government had issued G.O.Ms.No.129, Social Welfare Department, dated 13.08.1979, directing the Commissioner of Land Revenue and the Agency Collectors not to evict the non-tribal landless poor who are in occupation of the lands in the scheduled area upto 5 Acres of wet land or 10 Acres of dry land under the provisions of A.P.Scheduled Areas Land Transfer Regulation, 1959. In that view of the matter also, the respondents 2 and 3 are not supposed to initiate proceedings against the petitioners for their eviction as they are the landless poor people and they belong to backward class community and they have been in occupation and enjoyment of the scheduled land for more than thirty years since the time of their father.

Hence, the instant writ petition.

3. Notice is taken on behalf of respondents 1 to 3 by learned Government Pleader for Social Welfare.

4. Heard.

5. The main plank of argument of learned counsel for petitioners is that the petitioners are landless poor and they belong to backward class community and about thirty years prior to the date of filing of the writ petition, their father Hivure Raju occupied about 10 Acres of the Government land (dry) in Survey No.87 situated at Tumriguda Hamlet of Ankusapur Village, Adilabad District, which is in the scheduled area and ever since, his father and subsequently, the petitioners are in enjoyment of the subject land and they are paying the Cist to the Government. He would further submit that though the subject land is situated in scheduled area, by virtue of G.O.Ms.No.129, Social Welfare Department, dated 13.08.1979, the Government have issued directions to the Commissioner of Land Revenue and the Agency Collectors not to evict the non-tribal landless poor who are in occupation of the lands in the scheduled areas upto 5 Acres of wet land or 10 Acres of dry land. In that view, the respondents 2 and 3 have no right to evict the petitioners.

6. Learned Government Pleader for Social Welfare would submit that in case the petitioners make a representation before the concerned authorities, their claim with reference to G.O.Ms.No.129, Social Welfare Department, dated 13.08.1979 would be considered and appropriate orders would be passed.

7. In that view, this writ petition is disposed of giving liberty to the petitioners to make a representation before the

2nd respondent (now, the District Collector, Kumaram Bheem Asifabad District) within four weeks from the date of this order, in which event, the 2nd respondent shall, consider the claim of the petitioners with reference to the G.O.Ms.No.129, Social Welfare Department, dated 13.08.1979 and pass an appropriate order on merits within twelve weeks there from. Till such an order is passed, interim order passed by this Court on 05.03.2014 shall hold good. No costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

23.11.2018

*Note: issue C.C. by 27.11.2018
B/o.SS*

U.DURGA PRASAD RAO, J

