

**HON'BLE SRI JUSTICE S.V.BHATT**

**WRIT PETITION No.10619 of 2005**

**ORDER:**

No representation for the petitioner.

Heard the learned Assistant Government Pleader.

Petitioner prays for a mandamus declaring the action of respondent No.2, in seeking to assign the land admeasuring Ac.2.09 cents in R.S.No. 35 (Old Sy.No.86), Mulagadda Village, Visakhapatnam Urban, Visakhapatnam, as illegal and arbitrary; and, consequently, direct the respondents not to evict the petitioner from the petition land.

The case of the petitioner is that he is in possession and enjoyment of an extent of Ac.2.09 cents in R.S.Nos.35 and 36 (Old Sy.No.86), Mulagadda Village, Visakhapatnam Urban, Visakhapatnam. Petitioner claims possession through his ancestors. In S.R.No.11(a)/3/95, dated 29.01.2000, the claim of the petitioner for grant of ryotwari patta was rejected by the Settlement Officer and the petitioner filed R.P.No.15/2000 (D2) before Director of Settlement. The revision was allowed in part vide order dated 25.03.2004. The petitioner further alleges that he attended enquiry before Settlement Officer, and no orders are passed.

While matter stood thus, the Mandal Revenue Officer, Visakhapatnam (respondent No.2) asked the petitioner to

vacate from the land immediately. It is stated that the petitioner has come to know from respondent No.2 the dismissal of claim for grant of ryotwari patta by the Settlement Officer. The petitioner pleads ignorance of the orders passed by the Settlement Officer. According to petitioner, during and in the course of pendency of claims for grant of ryotwari patta, disturbing the possession of ryot/petitioner is impermissible and illegal. The petitioner also apprehended assignment of subject land in favour of third parties. Hence the writ petition for the relief referred to above.

Respondent No.2 filed counter affidavit explaining the history of subject survey number and various orders passed from time to time. Respondent No.2 has given details as to how the extent claimed in the writ petition is accounted for on ground, by different persons. Respondent No.2 has filed as Annexure – I, the order dated 10.05.2004 of the Settlement Officer, on the allegation in the writ affidavit, namely, that the predecessors in interest of the petitioner were in enjoyment of the property.

The stand of respondent No.2 for convenience, paras 7 to 9 of the counter affidavit is excerpted.

“As regards 3<sup>rd</sup> respondent, it is submitted that the 3<sup>rd</sup> respondent is in no way concerned to the land in Sy.No.35/2 as it was already alienated long back to the Defence and APSECC Limited i.e. in the year 1982. The 3<sup>rd</sup> respondent has purchased adjacent land from

the other ryotwari patta holders along with others in S.No.35/20 to 22 (p).

It is also submitted that while rejecting the claim of the petitioner, the JC has observed against the issue No.3 in his orders dated 10.05.2004 "the basic document i.e. extract of A register relied upon by the claimant has been considered as not valid and proved as a fabricated one in the orders dated 10.05.2004 in S.R.No.11 (a)/3/95-F2 of Joint Collector and Settlement Officer, Visakhapatnam

As there are no valid grounds for filing appeal before the appellate authority, the petitioner by filing the above writ petition has mislead the Hon'ble High Court by giving false information and obtained status quo orders and also by impleading a third person who is in no way concerned with the land in question only with a mala fide intention to grab the Govt. land under the guise of status quo orders. In view of the reasons explained above, the writ petition is not maintainable under law and it is liable for dismissal."

From the above, it is clear that the writ petition has not been filed with true and correct facts. Further, in spite of receipt of a copy of the counter long ago, the petitioner has not chosen to file reply and he is also not clear whether the petitioner desired to avail remedy of appeal against the order of Joint Collector or not. Further, with the passage of time and also vacation of interim order, the petitioner may not be interested in working out the writ prayer. The petitioner failed to prove possession of subject matter of litigation.

For the above reasons, the Writ Petition is dismissed.  
No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

**S.V.BHATT, J**

DATE:08.02.2018  
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