

HON'BLE SMT.JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No. 27438 of 2006

ORDER :

This Writ Petition is filed seeking to declare the action of the respondents 1 & 2 in not putting the petitioner into possession of the land admeasuring Ac 4.95 cents in Sy.No. 829/6 of Tatiparti Village Podalakuru (M) Nellore district, by evicting the 3rd respondent as illegal and arbitrary and direct the respondents to hand over the possession of the land admeasuring Acs 4.95 cents in Sy.No. 829/2006 of Tatiparthi Village Podalakuru Manal, Nellore district to the petitioner.

2. The brief facts, which are necessary for disposal of this writ petition, are that during the year 1978, the land admeasuring Ac. 4.95 cents in Sy.No. 829/6 at Tatiparti Village has been assigned to the father of the petitioner; D-form Patta was also granted and they are in a possession and enjoying the said property; after the death of the father of the petitioner the petitioner could not trace out the original patta; on representation, the M.R.O., Podalakuru, issued duplicate Patta on 31.12.1980; the petitioner obtained a loan of Rs.5,000/- from Sri Muli Ranga Reddy – the 3rd respondent, by giving the said land on koul; he could not discharge the said loan and when he went to the 3rd respondent and asked for the possession of the land, by taking the said amount of Rs.5,000/-, the 3rd respondent refused to hand over the possession. Hence, he filed the present petition requesting respondent No.1 and 2 to put him in possession of the said land.

4. Detailed counter affidavit has been filed, stating, *inter alia* that the petitioner's father was not granted D form Patta for the land admeasuring Acs.4.95 cents and that the M.R.O. did not issue a duplicate patta vide F

Dis134/78 dated 31.12.1980; as verified from the records, the name of Smt. Muli Premeelamma is found as assignee for Survey No. 829/6 for an extent of Ac 4.95 Cents covered by F.Dis.No. 134/78 dated 30.09.1969; her name is also found in Adangal and 10(1) Account; and the duplicate patta filed by the petitioner is found to be bogus and hence no action has been initiated to evict Sri Muli Ranga Reddy – the 3rd respondent; no record is available in the office, in which duplicate 'D' form Patta was issued to the petitioner; hence notice was issued to the Writ Petitioner on 30.03.2007 to file original copy of duplicate patta; but he has not filed the original copy of duplicate patta; the Tahsildar, Athmakur was addressed a letter on 30.03.2007 to verify the Darakhast Register and F.D. file No.134/78 with regard to the issuance of D Form Patta of the petitioner's father; and to send the connected file; and in turn the Tahsildar, Atmakur in Rc.A.164/2007, dated 03.05.2007 informed that the Darakasth Register of F.Ds file are not forth coming in their office; in the absence of records in both the offices in Taluq office, Atmakur where the original patta was issued and Taluq Office, Podalakur where the duplicate copy of the patta was stated to be issued, the duplicate patta is not genuine; as seen from Xerox copy of duplicate patta, it is observed that the Tahsildar, Podalakur has signed the 'D' form patta and affixed his office seal; generally whenever duplicate patta is issued it will be mentioned as "Sd/- xxx Tahsildar, Atmakur " and true copy attested by the Tahsildar; but in this case the Tahsildar, Podalakur has signed the patta as issuing authority; as seen from the Xerox copy of duplicate patta, there are only 9 conditions and in the reverse page i.e. page 2 starts with column 11; thus Col.No.10 is missing. This is due to taking out Xerox of one patta in the front portion and the second page containing the signature of the Tahsildar from other patta.; no patta was granted either to the petitioner or his father during the year 1978 in Survey No. 829 / 6 of the said land; No D form

patta was issued by the M.R.O. on 31.12.1980 in F.Dis No. 134/78.; no record is available in the office in which duplicate 'D' form patta was issued to the petitioner; As verified from the records, the name of Smt. Muli Prameelamma is found as assignee for Sy.No.829/6 for an extent of Acs. 4.95 cents covered by F.Dis.No.134/78, dated 30.09.1969; as per F Dis.No.134/78 dated 30.09.1969 her name was found in the Adangal and 10(1) Account; it came to light that said Prameelamma alienated to one Sri Muli Hanuma Reddy and hence notice in Form Nos.I & II have been issued to the assignee and alienee for violation of condition of assignment and further action is being taken as per the procedure.

6. Heard counsel for the petitioner and learned Assistant Government Pleader for Assignment (A.P.).

7. No reply affidavit has been filed by the petitioner denying the averments of the counter affidavit. As seen from the counter-affidavit, no patta has been issued in favour of the Petitioner. On enquiry by the official respondent, the duplicate patta produced by the petitioner is found to be bogus. As D Form patta produced by the petitioner is found to be bogus and it is found that the father of the petitioner was also not an assignee so far as the land admeasuring Acs. 4.95 cents in Survey No. 829/6 at Thadiparty village, is concerned, no action was taken by the official respondents .

8. In view of the facts and circumstances explained, the Writ Petition fails and is, accordingly, dismissed.

Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

KONGARA VIJAYA LAKSHMI,J

Dated: 17-07-2018
JR

HON'BLE SMT.JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No. 27438 of 2006



Dated: 17-07-2018

JR