THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Petition No.2965 of 2006

Order:

This Writ Petition is filed to declare the proposed action of the respondents in seeking to dispossess the petitioners from the lands admeasuring Ac.3-00 in Survey Nos.118/1 and 118/2 and Ac.2-00 in Survey No.116 of Kommadi village, Chinagadili Mandal, Visakhapatnam District, without following the procedure under Section 3(d) of the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 (for short 'the Act'), as illegal and without jurisdiction.

The brief facts of the case, according to the petitioners, are that they are owners and possessors of the lands admeasuring Ac.3-00 in Survey Nos.118/1 and 118/2 and Ac.2-00 in Survey No.116 of Kommadi village, Chinagadili Mandal, Visakhapatnam District; these lands are originally part of erstwhile Vizianagaram estate; the estate was abolished on 07.09.1949; as the lands were in their possession as on the date of abolition of the erstwhile Vizianagaram estate, they are entitled for issuance of patta under the provisions of the Act; as per Section 3(d) of the Act the Government is not entitled to dispossess the land holders who are entitled to patta under Section 12 in respect of private lands and the respondents, without following the procedure prescribed under the Act, are taking steps to evict the petitioners; the petitioners are regularly paying the land revenue and they applied for electricity connection also; the petitioners noticed that some notices were hung to the trees in the lands nearby the subject lands notifying that the respondents will take over the lands.

A counter affidavit has been filed by the Tahsildar, Visakhapatnam Rural Mandal stating, *inter alia*, that the village Kommadi was taken over under the provisions of the Act along with other villages of Vizianagaram District; after abolition of the estate, regular survey and settlement operations were conducted in the year 1958; during the course of settlement operations, the settlement authorities entertained all the claims and determined the new rights under the Act; they prepared a Settlement Fair Adangal and other records such as SF VII and SF VIII; survey and settlement operations were completed in the year 1959 and the Survey and Settlement records have been introduced in respect of the village with effect from 01.07.1959; as per the revenue records available, the land in Survey No.116 of Kommadi village was classified as Vagu (Government land) and the land in Survey No.118, admeasuring Ac.63.40 cents, of the same village was classified as "Assessed Waste Dry" (Government land) and the lands were vested with the Government since the date of notification; the petitioners were never in possession of the subject lands; in fact the land in Survey No.118/1 is vacant and it is under the possession of the Government; the land in Survey No.118/2 was originally assigned to one Siyyadri Bangari under landless poor quota and subsequently one Alluri Leelavathi purchased the land and applied for incorporation of changes in the revenue records and the then Tahsildar incorporated the names of the purchaser in the revenue records; Section 3(d) of the Act is applicable during taking over and settlement of the Estates and as Kommadi village is a settled village and the subject lands were classified as 'Vaagu' and 'Assessed Waste Dry' and vested with the Government, the provisions of Section 3(d) are not applicable and the question of following the procedure prescribed under Section 3(d) of the

Act does not arise; the writ petitioners have not submitted any application for grant of ryotwari patta under the provisions of the Act.

No reply affidavit has been filed by the petitioners disputing the averments made in the counter affidavit.

Heard learned counsel for the petitioners and the learned Assistant Government Pleader for Revenue.

Learned counsel for the petitioners contends that the petitioners are in possession of the subject lands as on the date of abolition of the erstwhile Vizianagaram estate and they are regularly paying the land revenue, hence they are entitled for issuance of ryotwari pattas under the provisions of the Act. He further contends that as per Section 3(d) of the Act, the Government is not entitled to dispossess the land holders who are entitled to patta under Section 12 in respect of private lands and the respondents, without following the procedure prescribed under the Act, are taking steps to evict the petitioners.

On the other hand, learned Assistant Government Pleader contends that since the subject lands are not in possession of the petitioners and since they have not filed any application for grant of ryotwari patta and the lands are vested with the Government, the question of following the procedure contemplated under the Act does not arise at all. He further contends that the provisions of Section 3(d) of the Act are applicable during taking over and settlement of estates and as Kommadi village is a settled village, the provisions of Section 3(d) of the Act are not applicable to the present case.

As seen from the counter affidavit, Kommadi village along with other villages of Vizianagaram district was taken over by the Government under the provisions of the Act and after abolition of the estate, regular survey and settlement operations were conducted in the year 1958 and

the settlement authorities prepared settlement fair adangal and other records and in respect of Kommadi village settlement records have been introduced with effect from 01.07.1959. As per the revenue records, the land in Survey No.116 of Kommadi village was classified as Vagu (Government land) and the land in Survey No.118, admeasuring Ac.63.40 cents, of the same village was classified as "Assessed Waste Dry" (Government land) and the lands were vested with the Government since the date of notification. It is also specifically stated in the counter affidavit that the petitioners were never in possession of the subject lands and they have not submitted any application in respect of the subject lands under the Act for grant of ryotwari pattas. Though the petitioners filed Xerox copies of cist receipts, house tax receipts and electricity bills, they do not confer any right or title to the petitioners. In fact, the land in Survey No.118/1 is vacant and it is under the possession of the Government and the land in Survey No.118/2 was originally assigned to one Siyyadri Bangari under landless poor quota and subsequently one Alluri Leelavathi purchased the land and applied for incorporation of changes in the revenue records and the then Tahsildar incorporated the names of the purchaser in the revenue records.

A perusal of Section 3(d) of the Act shows that it is applicable during taking over and settlement of Estates. Since the Kommadi village is a settled village and as per the revenue records the lands in the said village were classified as Vagu (Government land) and Assessed Waste land (Government land) and the lands are vested with the Government since the date of notification, the said Section is not applicable to the present case. Since the petitioners are not in possession of the subject lands and as the lands vested with the Government, the provisions of said

Section are not applicable to the petitioners. They also failed to establish that they are *prima facie* entitled to ryotwari pattas.

Having regard to the facts and circumstances of the case and in view of the categorical statements made in the counter affidavit, which are not rebutted by way of a reply affidavit, that the petitioners are not in possession of the subject lands, they have not filed any application for grant of ryotwari pattas, the lands vested with the Government and that the provisions of Section 3(d) of the Act are not applicable to the present case, no relief as sought for by the petitioners can be granted.

The Writ Petition is devoid of merit and the same is, accordingly, dismissed. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

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KONGARA VIJAYA LAKSHMI, J.

Date: 30th August 2018
Nsr

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

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