

HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.25074 of 2007

ORDER:

This writ petition is filed seeking to declare the action of the respondents in threatening to demolish the houses of the petitioners, constructed on the lands for which house site pattas were given by the 3rd respondent-Tahsildar in R.C.No.343/97/SPL RC i.e. Plot Nos.107, 105/1, 105/2, 106/1, 106/2, 108/1,107/1,107/2,108/2, 77,76,75,81,78,82,79,80 in Sy.No.304 of Madhurawada Village, Visakhapatnam Rural Mandal and in Rc.No.61/92-26-10-92 i.e. Plot No.1, 2, 3, 4, 16, 15,14,13,12,11,6,5 in Sy.No.336, Madhurawada Village, Visakhapatnam Rural Mandal, as illegal and arbitrary. A consequential direction was also sought not to demolish the houses of the petitioners who were given the house site pattas.

The brief facts of the case, according to the petitioners, so far as they are relevant, for the purpose of disposal of the writ petition, are that the petitioners are the daily wage labourers; House site pattas were given to petitioners in Sy.Nos.336 and 304 of Madhurawada Village; the petitioners have constructed small houses in those plots and were residing in the said houses; on 17.11.2007, some persons claiming to be the officials of respondents visited the houses of the petitioners and threatened to demolish the houses of the petitioners; no notice whatsoever has been given to the petitioners.

A counter affidavit has been filed by the 3rd respondent-Tahsildar, stating that the land measuring an extent of Ac.5.32

and an extent of Ac.1328.25 in Sy.No.336 of Madhurawada Village is classified as surplus agricultural land in Hill Poramboke; out of the said land, 105 persons were issued house site pattas in the year 1992, by the then Mandal Revenue Officer, Visakhapatnama Rural Mandal by the proceedings dated 26.01.1992 @ Rs.88/- per sq. yard each; similarly 34 persons were issued house site pattas by the then Mandal Revenue Officer, Visakhapatnam Rural in Sy.No.304 @ Rs.60/- per sq. yard each, vide proceedings dated 18.01.1997; the plots that were claimed by the petitioners form part of the house site plots granted to them during the year 1992 and 1997; house site pattas that were issued earlier, were cancelled by the then Mandal Revenue Officer due to violation of conditions of patta; after duly following the procedure of giving reasonable opportunity of being heard and after examining all the relevant records, the said land was resumed to the Government by the then Mandal Revenue Officer, Visakhapatnam Mandal and the same was allotted to VUDA, which in turn developed the land; the contention of the petitioners that they are in possession and enjoyment of small houses reported to have been constructed by them is denied by the respondents.

The writ petition was admitted on 28.11.2007 and *status quo*, obtaining as on that day with regard to possession was ordered to be maintained. On 03.02.2011, the interim order dated 28.11.2007 passed by this Court was made absolute. On 23.03.2018, when the matter come up for hearing, this Court directed the District Collector (Revenue), Visakhapatnam and the Tahsildar, Chinagadhili, Visakhapatnam (Rural), to appear in

person before the Court on 6.4.2018 along with the relevant records as the counter affidavit filed by them was very vague.

On 03.04.2018, an additional counter affidavit was filed by the 3rd respondent-Tahsildar stating *inter alia* that the Village of Madhurawada was taken over under the provisions of Estate Abolition Act, 1948 (for short, "the Act") along with other Villages of Vizianagaram Estate; after abolition of Estates under the provisions of the Act, this Village was taken over by the Government on 7.9.1949; Settlement and Re-survey operations were conducted in Madhurawada Village during 1956-59; the Survey and Settlement records in respect of this Village were introduced on and with effect from 01.07.1959; as per their office records, the Sy.No.336 (Old) is having an extent of Ac.1328.25 cents classified as "Agricultural Land Ceiling"; to know the factual position of land, the 3rd respondent-Tahsildar deputed his office Mandal Revenue Inspector and V.R.O to identify the petitioners and to submit factual position on ground status; the Mandal Revenue Inspector and V.R.O inspected the subject lands and visited Sy.Nos.304 and 336 of Madhurawada Village and submitted their report; as per the report of the Mandal Revenue Inspector and V.R.O, it is noticed that the present writ petitioners 1 to 12 claiming the land in Sy.No.336 are not residing in the said plots of Madhurawada Village and the whereabouts of the petitioners are not known to the local residents; the names of the petitioners are not available in any of the office records as house site pattadars; the local people also stated that the petitioners are not residents of that area and at present a gravel road is existing on the said plots; the petitioners

13 to 28 who were claiming the assignment of plots in respect of Sy.No.304 are also not residing in the respective plots as reported by the Mandal Revenue Officer and V.R.O; petitioners without having any title and with fabricated documents filed the present writ petition and the petitioners are not in the possession of the subject lands hence the question of dispossession does not arise; Government of Andhra Pradesh issued many Government Orders like G.O.Ms.Nos.166, 296 and now 388 for regularization of encroachments in Unobjectionable Government lands; if the petitioners are really in occupation of the Government land, by way of the dwelling houses in Sy.Nos.304 & 336 of Madhurawada Village, their dwellings will be regularized as per the rules/regulations subject to eligibility; the subject lands are located to right side of the National High Way-16; that the respondents never interfered with the possession of the poor people; as per the instructions of the Government, many encroachments were regularised under G.O.Ms.No.166 (March, 2008); if the State is intending to dispossess the petitioners from the Government lands, they would follow the due process of law;

No reply affidavit whatsoever has been filed to the additional counter affidavit filed by the 3rd respondent-Tahsildar.

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

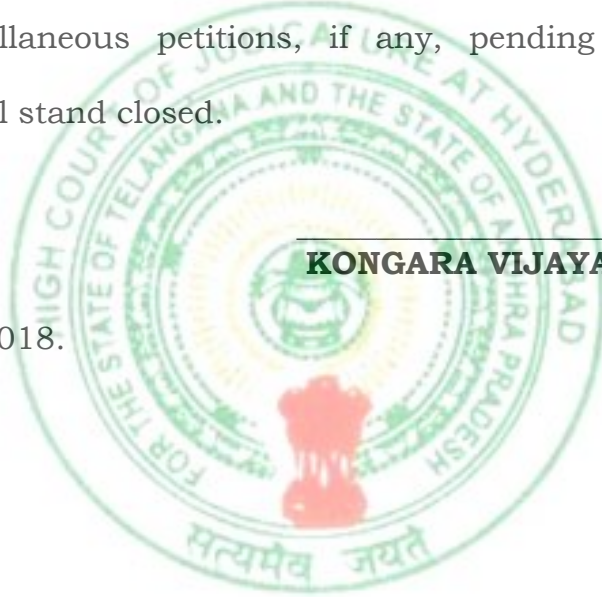
Categorical statements were made by the 3rd respondent Tahsildar in the additional counter affidavit stating that the petitioners without having any title and with fabricated documents filed the present writ petition; that the entire land in Sy.No.304 of Madhurawada, is totally built up; the lands in

Sy.No.336, were alienated to A.P.I.I.C for development of I.T SEZ, part of the land in Sy.No.336 of Madhurawada, was also previously allotted to handicapped people, some of them are residing in the allotted plots and some of them are vacant on ground; that many encroachments were regularized under G.O.Ms.No.166 (March, 2008). The averments in the additional counter affidavit which are not controverted show that the petitioners are not having any title to the land. In view of the same, no further orders are necessary in the writ petition.

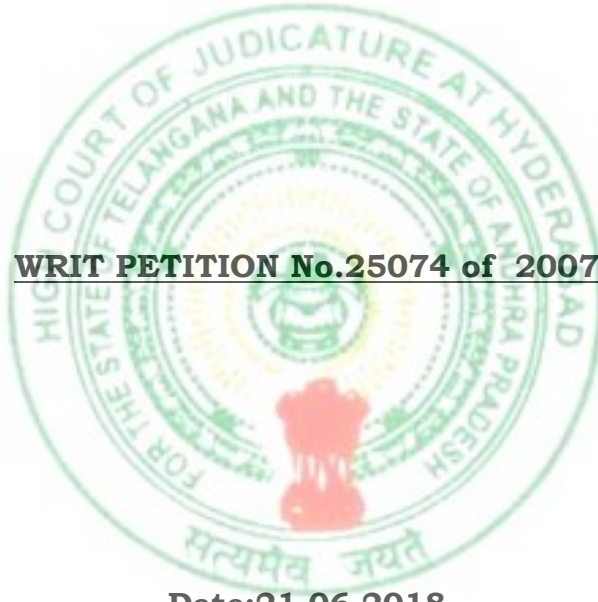
Accordingly, the writ petition is closed. No order as to costs. Miscellaneous petitions, if any, pending in this writ petition, shall stand closed.

KONGARA VIJAYA LAKSHMI, J

Date:21.06.2018.
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HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI



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