

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.6093 OF 2007

ORDER:

This Writ Petition is filed seeking to declare the action of the respondents in trying to acquire the land in survey No.226 situated at Gulyam Village, Halaharvi Mandal, Kurnool District, without following due process of law as illegal, arbitrary and violative of Article 300A of the Constitution of India and consequently direct the respondents not to dispossess the petitioner from the said land.

The case of the petitioner is that he is the owner and possessor of the land to an extent of Acs.27.00 cents forming part of survey No.226, Gulyam Village, Halaharvi Mandal, Kurnool District. Subsequently, the land was sub-divided into survey Nos.226/1 and 226/2B. The land is an agricultural land. Out of total extent of Acs.27.00 cents covered by survey No.226/1, the petitioner had surrendered land to an extent of Ac.1.31 cents on 06.03.1991 pursuant to the orders passed by the Land Reforms Tribunal, Adoni, in C.C.No.1945/1946/ALR/75 dated 24.01.1977. Further, in an earlier occasion, the respondents issued 4(1) notification proposing to acquire the land of the petitioner to an extent of Acs.10.00 cents and the same was published on 08.03.1996. However, in spite of invoking urgency clause under Section 17 (4) of the Land Acquisition Act, the respondents have not taken possession of the land and no further proceedings were taken up for passing the award. As such, in view of Section 11(A) of the Act, notification was lapsed and the petitioner has been in continuous possession and enjoyment of the land and raising

jowar and commercial crops like chilly, etc. While so, the respondents visited the land of the petitioner and tried to survey the land. When the petitioner protested the same, the respondents informed that they were acquiring the land for the purpose of allotment of plots to weaker sections. Petitioner further states that the respondents were trying to dispossess the petitioner from the subject land without following due process of law. Thus, questioning the high handed action of the respondents, the present writ petition is filed.

The first respondent filed a counter affidavit stating that as per RSR of Gulyam Village, the total extent of land in survey No.226 is Acs.27.00 cents. Vide letter dated 11.09.2004, the petitioner proposed to surrender the land to the extent of Acs.27.00 cents and the same was approved by the then Land Reforms/Revenue Divisional Officer, Adoni, after following due procedure and the Mandal Revenue Inspector, at the instructions of the Revenue Divisional Officer, had taken possession of the land on 30.11.2004. As the land was surrendered as per the procedure contemplated in Land Reforms Act, action was initiated for assigning the land to landless agriculture poor persons and the land was assigned to 22 beneficiaries @ Ac.1.00 cents to each on 6.05.2006. In respect of the remaining land of Acs.3.69 cents, house site pattas were issued on 10.06.2006. It is further contended that the land to an extent of Ac.1.31 cents in survey No.226 was already surrendered by the petitioner vide C.C.No.1945/1946/ALR/75 dated 24.01.1977, which was also assigned to landless poor persons. Thus, the total extent of Acs.27.00 cents in survey No.226 is in possession and enjoyment

of the beneficiaries, but not in possession and enjoyment of the petitioner. Hence, the contention of the petitioner that the respondents are trying to dispossess the petitioner from the subject land is incorrect.

No reply is filed by the petitioner rebutting the averments made by the respondents in the counter.

In the counter it has been specifically pleaded by the respondents that the petitioner had surrendered the entire extent of land in survey No.226 and the same was approved after following due procedure contemplated under the Land Reforms Act and possession was also taken by the respondents of the subject land. Further, the said land was also distributed to various beneficiaries in the form of assignments/pattas. That be so, the question of respondents dispossessing the petitioner from the subject land would not arise since the petitioner is not in possession of the subject land.

For the afore-stated reasons, the Writ Petition is misconceived, devoid of merits and liable to be dismissed. Accordingly, the Writ Petition is dismissed. However, the petitioner is given liberty to agitate his grievance for his excess surrender of the land before the Land Reforms Tribunal, as per law.

Miscellaneous petitions pending in this petition, if any, shall stand closed. There shall be no order as to costs.

(M.GANGA RAO, J)

13th March, 2018
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