

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.28977 of 2018

ORDER:

1) Heard learned counsel for the petitioners and Government Pleader for Revenue (AP). With the consent of both the parties, the Writ Petition is being taken up for hearing at the admission stage itself.

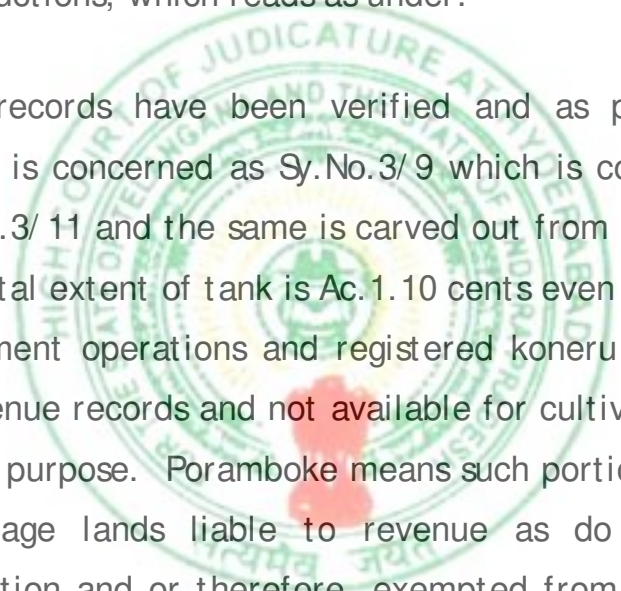
2) The present Writ Petition came to be filed seeking issuance of writ of Mandamus declaring the action of the respondents in dispossessing the petitioners from the land admeasuring Ac.1.10 cents in Sy.No.3-9 (New) Sy.No.11/ 1 (old), situated at Venkatapuram Village, Gajapathinagaram Mandal, Vizianagaram District, without following due process of law, as illegal, arbitration and violation of Article 300-A of the Constitution of India.

3) The averments in the affidavit filed in support of the writ petition would show that originally Mithinti Satyam @ Satyanarayana and late Pallanti Krishna Rao, jointly purchased the subject land under registered sale deed vide document No.1323/1947, dated 08.07.1947 from their vendors. The 1st petitioner is the son of Mithinti Satyam and the 2nd petitioner is the daughter of Pallanti Krishna Rao. It is said that after the demise of their father, the petitioners succeeded the property and they are in possession of the property. While things stood thus on 01.08.2018 the 3rd respondent visited the said land along with his staff and tried to dispossess the petitioners without issuing any notice and without following due

process of law. Challenging the said action, the present Writ Petition came to be filed.

4) Since only one document which is said to have been executed in the year 1947 came to be filed along with the petition, the learned counsel for the petitioners is directed to get the documents showing the possession of the petitioners till date. The Government Pleader was also directed to get instructions in that regard.

5) The Government Pleader for Revenue placed on record the written instructions, which reads as under:



“The records have been verified and as per existing record is concerned as Sy.No.3/ 9 which is correlated to R.S.No.3/ 11 and the same is carved out from Sy.No.11/ 1. The total extent of tank is Ac.1.10 cents even prior to the settlement operations and registered koneru poramboke in revenue records and not available for cultivation or for selling purpose. Poramboke means such portion of estate or village lands liable to revenue as do not admit cultivation and or therefore, exempted from assessment and sterile or waste land, rock, water, wilderness site of dwelling and like also common land near town any place situated out of or beyond certain limits. So the said land is not yet all royti land and eligible for grant of ryotwari pattas. Therefore, it is purely a Government Land.”

6) Basing on the above, it is urged by the learned Government Pleader that as things stand today the Koneru is abandoned with no water and the petitioners are in un-authorised occupation of the said land.

7) But however, the learned counsel for the petitioners placed on record the Encumbrance Certificates issued from 01.01.1947 to 31.12.1982 and 01.01.1983 to 17.08.2018. As per the Encumbrance Certificate dated 18.08.2018, which is related to the period from 01.01.1947 to 31.12.1982 the description of the property was shown as Enam Kolavari Koneru. In the column of executants it is shown as Kola Appala Swamy, Narayanappadu, where as in the claimants column it is shown as Pallanti Krishna Rao, Mithinti Satyam. No particulars are shown in the Encumbrance Certificate dated 17.08.2018, pertaining to the period 01.01.1983 to 17.08.2018. Basing on the above documents, it is urged that even as per government records the name of petitioners' father was shown in claimants' column till date. Learned counsel for the petitioners further submits that if really the petitioners have no right over the property, steps should be taken only in accordance with the procedure established under law.

8) In view of the documents, which were issued by the concerned authority and taking into consideration the statement made by the learned counsel for the petitioners, the Writ Petition is disposed of directing the respondents to follow due process of law while taking steps for dispossession.

9) Miscellaneous petitions, pending if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE C. PRAVEEN KUMAR

20.08.2018
gkv

