

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.29285 OF 2018

ORDER:

The present writ petition came to be filed seeking to declare the action of the official respondents in issuing the DKT patta for the land admeasuring Ac.4.14 cents, situated at Sy.Nos.358/2, 358/3 and 358/4 of Angericheruvu Revenue Village, K.V.B Puram Mandal, in favour of the 6th respondent herein, as illegal and arbitrary.

The grievance of the petitioners is that they are the absolute owners and possessors of the subject land since last thirty years. It is stated that the 6th respondent herein who is a resident of Srikalahasti, claimed right over the subject land alleging that the same was given to him by the Government and hence he sent the notices to the petitioners for vacating the subject land. It is further stated that as the 6th respondent is a non local person, he is not eligible for assignment of the land and that the 6th respondent was never in possession of the said property. In view of the above, petitioners submitted an application on 3.4.2017 under "Meekosam" complaining about the issuance of patta in favour of the 6th respondent. Basing on the complaint, the Mandal Surveyor enquired into the matter and issued a report dated 20.6.2017, stating that in respect of lands admeasuring Ac.4.17 cents, situated in Sy.No.358/2 of Angericheruvu Revenue Village of K.V.B Puram Mandal, the 6th respondent was issued DKT Patta and subsequently pattadar passbook was also issued. The Tahsildar, KVB Puram submitted a letter dated 22.6.2017 to the District Collector, Chittoor admitting the possession of the petitioners for the last thirty years and also directed to cancel the DKT patta issued to the 6th respondent. Hence, the present writ petition.

Learned Government Pleader for Revenue, on instructions, states that the Tahsildar, Thottamabedu granted DKT patta in respect of the

above said property in favour of 6th respondent- Pathi Balasubramanyam, S/o. Ramaiah vide DKT No.532/4/92 dated 31.5.1983 and PPB was also issued in favour of the assignee vide khata No.165. It is also stated that as disputes arose between the assignee and the present petitioners, the 6th respondent-P. Balasubramanyam filed a suit in O.S.No.5 of 2008, on the file of Principal Junior Civil Judge, Srikalahasti and obtained permanent injunction. Aggrieved by the same, petitioners filed an appeal in A.S.No.20 of 2012, on the file of the Senior Civil Judge, Srikalahasti and the same was dismissed confirming the decree and judgment of the lower court. Thereafter, the 6th respondent-assignee filed E.P.No.22 of 2018 in O.S.No.5 of 2008 for implementation of the judgment and decree dated 27.12.2011 and the same is pending consideration.

Learned Government Pleader, would further submit that the matter is *sub judice* before the Civil Court, to which the Government is not a party. It is further stated in the written instructions that after disposal of the above said E.P, action will be taken in accordance with BSO-15(18). Learned Government Pleader, placed on record, the Adangals issued in respect of the subject lands to show that the 6th respondent is in possession of the subject property.

Learned counsel for the 6th respondent would submit that the allegations in para No.3 of the writ affidavit that the petitioners are in possession of the subject property, is not correct. In fact the 6th respondent initiated civil proceedings by filing O.S.No.5 of 2008, seeking permanent injunction and that being the position, the question of admitting that the petitioners in possession of the subject property may not be proper. More over the appeal filed by the petitioner in A.S.No.20 of 2012, before the Senior Civil Judge, Srikalahasti, was dismissed and an execution petition in E.P No.22 of 2018 in O.S.No.5 of 2008 was also

filed for execution of the decree and judgment in O.S.No.5 of 2008 and the same is pending for consideration.

Having regard to the facts and circumstances of the case stated above, the question of proceeding further with the matter till appropriate orders are passed in execution petition, may not arise. Further, if any action, is sought to be initiated by any authority in respect of the subject lands, orders passed by the civil Court and the report of Tahsildar dated 22.6.2017, shall be taken into consideration, apart from giving notice of hearing to the petitioner, the 6th respondent and all concerned.

With the above directions, the writ petition is disposed of. No order as to costs. As a sequel to disposal of the writ petition, WP.M.Ps if any pending shall stand closed.

Dated:27.08.2018.
Gk

C. PRAVEEN KUMAR, J



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