

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION NO.962 OF 2005

ORDER:

This writ petition is filed seeking to declare the action of 2nd respondent in issuing proceedings in Reference No.B/90/03, dated 11.8.2004 canceling the patta claimed to have been granted in favour of 1st petitioner and his two sons and the consequential memo of the 1st respondent to the 3rd respondent directing to implement the order of 2nd respondent as illegal, void, without power or authority and consequently direct the respondents to refrain in any way from interfering with the possession and enjoyment of the land to an extent of Ac.15.30 guntas in Sy.No.388 of Korlagudam village of Kalluru Mandal, Khammam District, purchased by the 1st petitioner under registered sale deed in the year 1985 in pursuance of the sale agreement of the year 1983.

2. It is the case of the petitioners that the 1st petitioner purchased an extent of land admeasuring Ac.15.30 guntas in Sy.No.388 of Korlagudam village of Kalluru Mandal, Khamma District, under a registered sale deed dated 2.2.1985 from the legal heirs of one Annasamudram Jagannadha Rao, an Advocate, for consideration and he was kept in possession of the said land. Thereafter, the 1st petitioner sold the said land in favour of petitioners 2 and 3 under a registered sale deed vide document No.17/2005 dated 12-01-2005. Mutation has also taken place in pursuance of the sale transactions in the revenue records.

3. While so, the 1st respondent issued a show cause notice dated 19.9.2003 in pursuance of the letter written by the 2nd respondent i.e., A.P. Bhoodan Yagna Board, to which, the 1st petitioner has

submitted his explanation. The letter dated 12.9.2003 of A.P.Bhoodan Yagna Board was not served on the 1st petitioner and the same was also not furnished to him by the Mandal Revenue Officer, Kalluru. The essence of the notice is that the 1st petitioner Mr.L.Venkateswara Rao along with his two sons Mr.Ramesh and Mr.Srikar Pavan Kumar all have obtained the land in an extent of Ac.15.00 guntas (Ac.5.00 each) in Sy.No.388 of Korlagudam village from A.P.Bhoodan Yagna Board by misrepresenting that they are landless poor persons.

4. The petitioners submitted that they never approached the Government for grant of any patta and the said extent of land admeasuring Ac.15.30 guntas in Sy.No.388 is the self-acquired property of the first petitioner, which is again alienated in favour of petitioners 2 and 3 and that the petitioners and their vendees are in possession of the said land.

5. In pursuance of the show cause notice dated 8-12-2003 issued by the A.P.Bhoodan Yagna Board, a final order of patta cancellation proceedings were issued on 11-08-2004, which are under challenge in this writ petition, stating that the patta proceedings No.12114, 12115, 12116, dated Nil/2/94 said to have been issued in favour of the first petitioner and his two sons in an extent of Ac.15.00 (Ac.5.00 each) is in correct as they did not possess any patta.

6. The learned counsel appearing for A.P.Bhoodan Yagna Board contended that the first petitioner and his two sons, cheated the Government and obtained land in an extent of Ac.15.00 and also filed applications dated 4.07.2002 before the A.P.Bhoodan Yagna

Board, stating that they lost patta proceedings and requested to issue duplicate certificates.

7. After cancellation of patta proceedings, again pata was granted in favour of the 4th respondent herein.

8. The learned counsel for the petitioners advanced his arguments relying upon Sections 12, 13 and 14 of A.P. Bhoodan and Gramdan Act, 1965 and the Rules made thereunder.

9. Per contra, the learned counsel appearing for A.P. Bhoodan Yagna Board, relied upon Section 35 of the said Act and submits that the action of the second respondent Board is in conformity with the rules and the legal provisions relied on by the learned counsel for the petitioner has no weight under law in terms of Section 35 of the Act.

10. The other contentions of the learned counsel for the petitioners made with regard to the procedure that the Board has to be followed while granting pattas to the 4th respondent herein are presently not relevant to the facts of the case as the main issue runs around the cancellation of pattas and the disputed questions of fact that the petitioners are not the patta holders in respect of the said land, but it is the self acquired property of the first petitioner and it was further alienated in favour of petitioners 2 and 3. The prayer in the writ petition is that the first petitioner has sought to set aside the proceedings dated 11-08-2004 in so far as the cancellation of pattas granted in his favour and his two sons and consequential relief.

11. Admittedly, the two sons of the first petitioner i.e., Mr.Ramesh and Mr.Srikar Pavan Kumar are not parties to the writ petition and they are not before this Court and they have not challenged the impugned proceedings and accordingly, no relief can be granted in favour of the sons of first petitioner. Hence the prayer to that extent is dismissed. The petitioners are in possession of the subject lands and therefore, the balance of convenience is in favour of the petitioners and they shall not be dispossessed from the subject land without following due process of law.

12. Accordingly, this writ petition is disposed of, setting aside the impugned order dated 11.8.2004 to the extent of petitioners only, without going into the disputed question of facts, giving liberty to both parties to avail remedies available to them under law with regard to the title of the land, before appropriate forum. No order as to costs. As a sequel, the miscellaneous petitions pending if any shall stand closed.

T.AMARNATH GOUD, J

Date: 23-02-2018.
Shr.