

**THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

**WRIT PETITION NO.4318 OF 2016**

**ORDER:**

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner to declare the action of the Respondent Nos.2, 4 and 5 to dispossess the petitioner from his property admeasuring Ac 2-50 Cents in Sy.No 564/A of Pathikonda Revenue Village Gangavaram Mandal Chittoor District without due process of law as illegal arbitrary and unconstitutional and consequently direct the respondent Nos.2, 4 and 5 not to dispossess the petitioner from his peaceful possession of the property admeasuring Ac 2-50 Cents in Sy.No 564/A of Pathikonda Revenue Village Gangavaram Mandal Chittoor District without following due process of law.

The land in an extent of Ac.7-17 cents in Sy.No.564 of Pathikonda Village, Gangavaram Mandal was assigned in favour of Papaiah and Thiruvarappa by the Government on 17.08.1936 for market value. Subsequently, the said property was purchased by One Shankarappa and Rachappa under registered sale deed dated 05.06.1953 bearing document No.930/1953. Later, the said Shankarappa died and his share was succeeded by his son Basappa and he sold the same to the petitioner under registered sale deed on 05.11.1982 vide document No.2542/1982. Since the date of purchase, the petitioner is in peaceful possession and enjoyment of the property and obtained pattadar passbook and title deeds as per the provisions of Andhra Pradesh Rights in Land and Pattadar Passbooks Act. While, the petitioner is continuing in possession and enjoyment of the property, third parties made an

attempt to grab the property, thereupon, he approached the Civil Court and filed O.S.No.238 of 2014 and obtained temporary injunction in I.A.No.1068 of 2014 on 31.12.2014. While the matter stood thus, the respondent Nos.2, 4 and 5 threatened to dispossess the petitioner from his property without following due process of law.

Respondent No.4 filed counter admitting assignment of land to one Bangi Papaiah in Taluk AM.No.79/4/45, subject to the reservation of one cart track 10 links in width, one foot path 3 links in width and one vanka 6 links in width. The assignment was issued free of cost and not for market value. Thus, the petitioner approached the Court with unclean hands by stating that the assignment was for market value. Original assignee sold the land along with his legal heirs to one Sankarappa and Rachappa vide registered document No.930/1953 dated 05.06.1953. Later, the said Sankarappa died and his share was succeeded by his son namely Basappa. The said Basappa sold his share of land to the petitioner herein vide document No.2542 of 1982. Thus, the petitioner became the owner of the land, but as per terms and conditions of the patta, cart track 10 links in width, one foot path 3 links in width and one vanka 6 links in width are in existence.

It is also contended that as per G.O.Ms.No.1142 dated 18.06.1954, DKT patta will be issued to a land less poor with an extent of Ac.5.00 cents, subject to 10% increase or decrease as per survey of the field. There is no such condition to assign the land to an individual on market value. The above assignment took place before implementation of G.O.Ms.No.1142 dated 18.06.1954, as such DKT pattas granted prior to 1954 are with a right to sell or

alienation. Hence, several transactions took place and the present petitioner has also become title holders for an extent of Ac.2.50 cents. But the condition existing in village "A" register subject to the reservation of one cart track 10 links in width, one foot path 3 links in width and one vanka 6 links in width is still in force as there is no exemption to the petitioner herein as there is already existing cart track in the land of the petitioner is being used by the villagers of Peddenepalle for the last more than 80 years and he is causing lot of inconvenience to the villagers and obstructing the villagers from using the cart track. At present no land revenue is collecting since 1995. As the petitioner causing inconvenience to the villagers to use the cart track, the respondents are constrained to take action against him.

Learned counsel for the petitioner contended that the provisions of Andhra Pradesh assigned Lands (Prohibition of Transfer) Act,1977 have no application to the present facts of the case, thereby the petitioner cannot be dispossessed without following due process of law and requested to pass appropriate orders.

Learned Government Pleader for the State contended that the provisions of Andhra Pradesh assigned Lands (Prohibition of Transfer) Act,1977 are applicable to the assigned lands and the violation of conditions enables the authorities concerned to resume the land by following necessary procedure.

Admittedly, the land was assigned land and the petitioner became owner of the land of an extent of Ac.2.50 cents by virtue of registered sale deed No.2542 of 1982 dated 05.11.1982. The only reason for alleged interference is that cart track 10 links in width,

one foot path 3 links in width and one vanka 6 links in width are in existence and the petitioner is preventing the public from using the same, which is being used by the public from time immemorial, thereby the respondent No.4 intend to take necessary action, but causing such inconvenience to the villagers is not a ground to dispossess the petitioner and if really, the villagers are deprived of enjoying the right of pathway, cart track etc., the remedy open to them is to approach the competent civil Court to restrain the petitioner from interfering with the enjoyment of pathway, cart track and vanka. But on account of such obstruction and causing inconvenience to the villagers, the respondent No.4 cannot dispossess the petitioner forcibly without following due process of law. Hence, the action of the respondents to dispossess the petitioner from the land in dispute is illegal, arbitrary and violation of Article 300-A of Constitution of India.

In the result, the writ petition is allowed. It is needless to mention that this order will not preclude the respondents from taking appropriate steps in accordance with law after affording reasonable opportunity to the petitioner. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

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**JUSTICE M. SATYANARAYANA MURTHY**

24.04.2018  
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