

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT PETITION No.38893 OF 2013

ORDER:

The petitioners seek writ of mandamus declaring the action of the respondents in not considering the representations dated 10.09.2013 and 21.10.2013 for allotment of patta certificate and pattedar passbooks in favour of petitioner in respect of land in survey No.410/B, admeasuring Acres 1.14 cents situated in Abbaipalem Village, Maripedu Mandal, Warangal District, as illegal, arbitrary and consequently, direct the respondents to consider the representations made by the petitioners and issue patta certificate and pattedar passbook for the aforesaid land.

2. (a) Petitioners case, in brief, is that petitioners are agriculturists and they belong to Lambada (Scheduled Tribe Community). One Maram Raju Yadagiri Rao was the owner of the lands in Survey No.410/B admeasuring 4 Acres situated in Abbaipalem Village, Maripedu Mandal, Warangal District. Apart from the said land, Yadagiri Rao was holding vast extent of lands in various survey numbers in Abbaipalem Village. The father of the 1st petitioner i.e., Boda Malsoor and father of petitioners 2 to 5 namely Boda Hacha, during their lifetime worked under the said Yadagiri Rao by looking after his lands. Yadagiri Rao was the original pattedar of land in survey No.410 admeasuring 5 Acres situated in Abbaipalem

Village, out of which, 4 Acres was unfit for cultivation. Hence, Yadagiri Rao donated the said 4 Acres of land to the father of 1st petitioner, his uncle and the father of petitioners 3 to 5 for the services rendered by them. They cleared the bushes and brought the land under cultivation.

(b) While so, the Yadagiri Rao, in his ceiling declaration, mentioned one Acre of the land in survey No.410/B as “Kharaj Katha” and surrendered the remaining extent of 8 Acres in the said survey number to Government under Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973. In the land in survey No.410/B2 admeasuring one Acre which is classified as “Kharaj Katha” in revenue records, the PWD department laid a road leading from Mahabubabad to Maripeda. On application made by the petitioners, the 3rd respondent mutated patta in their names in revenue records for an extent of Acres 1.26 guntas and assigned as survey No.410/B1. The 3rd respondent also issued pattedar passbooks and title deeds in their favour. The petitioners made several representations requesting to effect the patta in respect of the balance land of Acres 1.14 guntas in survey No.410/B, but, till today, the respondents have not taken any steps in that regard. The petitioners are in continuous possession and enjoyment of the land of Acres 1.26 guntas in survey No.410/B1 and also the land of Acres 1.14 guntas in survey No.410/B. Recently, the revenue

authorities conducted the survey and fixed boundaries in respect of land in survey No.410/B admeasuring one Acre. However, the revenue officials on a wrong assumption identified survey No.410/B2, instead of survey No.410/B. The 3rd respondent through his proceedings R.C.No.B/1046/2012, dated 22.08.2013, issued notice directing the petitioners not to raise any crops in the said land. After receipt of the said notice, petitioners made representations dated 10.09.2013 and 21.10.2013 to the 3rd respondent requesting him to issue patta certificate in their favour. However, the respondents have not taken any action.

Hence, the instant writ petition.

3. Learned Government Pleader for Revenue appeared on behalf of respondents and filed counter opposing the writ petition. It is contended in the counter that according to revenue records of Abbaipalem of Maripeda Mandal, one Maramraju Yadagiri Rao, was the owner of the land in survey No.410/B admeasuring 4 Acres upto 1977-1978. He has surrendered an extent of Acres 2.65 cents under Ceiling Act. The contention of the petitioners that the original pattedar donated the said land to the father of the 1st petitioner and his uncle is not correct. It is further contended that out of Acres 2.65 cents, an extent of Acres 1.65 cents was assigned to Boda Malsoor – the father of the 1st petitioner and

remaining one Acres was classified as “Kharaj Katha” from 1982-1983 to till date. After survey, demarcation and fixation of the boundaries, it was noticed that the petitioners encroached one Acre in survey No.410/B illegally and several notices were issued to the encroachers to vacate the said land. It is further contended in the counter that the land in Survey No.410/B measuring one Acre is a Government Ceiling land. It is located approximately 2.300 meters from Mandal Head Quarters. As per Government Orders, no Government land can be assigned which is located within 5 Kms. radius from the Mandal Head Quarters. Respondent, thus, prayed to dismiss the writ petition.

4. Heard learned counsel for the petitioners and learned Government Pleader for Revenue appearing for respondents 1 to 3.

5. As can be seen from the respective submissions of both parties, admittedly, the petitioners were granted patta in Acres 1.26 guntas (Acres 1.65 cents) in survey No.410/B1. So far as the remaining one Acre in survey No.410/B is concerned, the petitioners are admittedly in possession of the same and they made a representation to the respondents for issuance of the patta. The contention of the respondent is that the said land is a Government Ceiling land and it is located approximately 2.300 meters from Mandal Head Quarters and no assignment can be made in respect of a land

which is situated within a radius of 5 Kms. from the Mandal Head Quarters. On that ground, the respondents are refusing to grant pattas in respect of the said land to petitioners. In view of the fact that the petitioners are in possession of the said land, the respondents in order to evict them shall follow the due process of law.

6. In the result, the writ petition is disposed of, with a direction that the respondents shall follow due process of law before evicting the respondents from the land of one Acre situated in survey No.410/B of Abbaipalem Village of Maripeda Mandal, Warangal District. No costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

04.12.2018
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U.DURGA PRASAD RAO, J