

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 16957 of 2013

ORDER:

1) The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of the respondents in trying to take possession of the land admeasuring Ac.90.00 situated in D.No.2 called as Peda Lanka, Thummalagadda, Uppugadda, Jilledugadda situated in the midst of Krishna river adjacent to Malladi Village, Amaravathi Mandal, Guntur District, without issuing any notice and without causing any enquiry, is illegal, improper and incorrect.

2) The averments in the affidavit filed in support of the writ petition would show that the petitioners claim to be in possession and enjoyment of the above property and that they are inherited the same from their ancestors. Since last 100 years the ancestors of the petitioners and thereafter the petitioners claimed to be cultivating the said land. It is said that the land in question is an estate land as defined under Section 3 (16) of the Andhra Pradesh (Andhra Area) Estates Land Act, 1908 (for short "the Act") and a notification under Rent Reduction Act pertaining to Pandugala Agraharam was also issued. One Sri Satya Promoda Theertha Swamulavaru,

who is head of the Uttaradhi Mutt, represented by his power of attorney agent namely Sri Markapuram Srinivasacharyulu, filed a suit, which went against him. Against the judgment and decree, the matter was carried to an appeal before the High Court of Madras. Subsequent to the formation of State of Andhra the matter was transferred. The appeal filed by the Mutt was dismissed holding that Uttaradi Mutt is not entitled for the relief claimed. Subsequently S.A.Nos.134 and 135 of 1971 and W.P.No.517 of 1971 were filed. In the said proceedings, it was held that Pandugula Agraharam is an Inam Estate and the lands are Ryothi lands and that the ancestors of the petitioners have acquired occupancy rights over the said land. The family members of the petitioners were shown as respondents 3 to 15 in S.A.Nos. 134 and 135 of 1971. It is further stated that subsequently when the revenue authorities were tried to interfere with their possession, W.P.No.517 of 1971 came to be filed seeking a direction to the respondents not to dispossess the petitioners. The said writ petition was disposed of in the year 1982. It is said that subsequent to the above, no enquiry was conducted to find out whether the petitioners or their ancestors are in possession of the property and are entitled to any right over the same. In spite of the orders passed by the High Court in the year 1982, no enquiry was conducted and every time the

authorities are illegally interfering with the possession of the petitioners over the said land. Hence, the present writ petition.

3) By an order dated 24.06.2013, this Court while admitting the writ petition, ordered *status quo* to be maintained in all respects including possession, construction, alienation, creation of third party rights and changing the nature of the land.

4) The Government filed counter along with vacate stay petition. It is said that the petitioners were not parties to W.P.Nos. 517 of 1971 and 2256 of 1978 and that the petitioners were never in possession and enjoyment of the property. It is said that there is no documentary evidence in favour of the petitioners to show that they are in possession of the property. It is said that since it is an Inam Village, no FLR is available, as reported by the Assistant Director, Survey and Land Records, Guntur. According to the counter, the lands including disputed land are classified as Krishna River Poramboke Lands. The allegation in para No.8 of the affidavit that the petitioners are in possession of 1 to 2 acres each; that the respondents went to the village on 03.06.2013 and threatened to dispossess the petitioners, though the petitioners provided the copies of judgments and orders

previously passed, is denied. It is said that the question of conducting and holding an enquiry as to whether the petitioners are in occupation of the lands would not arise as the petitioners have no right over the said land. The allegation that the respondents went to the village on 03.06.2013 and 13.06.2013 and threatened the petitioners is also denied. The allegation of respondents getting away the standing trees is also denied. On the other hand, it is said that there are no standing trees as alleged by the petitioners. Since one Didgu Manchineni Raja, occupied the above mentioned land and raised Subabul and Eucalyptus trees, who was given time to cut the same. In view of the above, it is pleaded that there are no merits in the writ petition and the same is liable to be dismissed, more so the petitioners have no right or title over the said land.

5) Learned counsel for the petitioners mainly relied upon the judgments passed by the civil Court and more particularly on the order passed by this Court in W.P.No.2256 of 1978. The relevant portion of the order, which is extracted is as under:

“The next question on which there is no agreement is, whether the petitioners have to file an application under Section 11 (A) of Act XXVI of 1948 or not obliged to file any application. It is for the authorities to consider the same and pass appropriate orders. If for

any reason the petitioners are obliged to apply under Section 11 (A) till such time the application is considered and disposed of. The petitioners are not to be evicted. With the above direction the Writ petition is ordered as closed.”

6) From the judgment of this Court delivered in the year 1982, it appears that the petitioners are in possession of the property. The order further says that it is for the authorities to consider as to whether the petitioners have to file an application under Section 11 (A) of Act XXVI of 1948 or not obliged to file any application. If for any reason the petitioners have to file application under Section 11 (A) till such time the petitioners therein shall not be evicted.

7) Ofcourse, the petitioners herein, are not the petitioners in the said writ petition. These petitioners claimed to be the legal representatives of the petitioners therein. The record does not anywhere indicate as to filing of an application by the petitioners under Section 11 (A) of Act XXVI of 1948 nor the counter says as to whether any notice was issued or any decision taken by the respondents. But at the same time it is to be noted that the petitioners have not filed any documents except the orders of the civil Court, to show that they have right or title over the property and that they are the legal heirs of the parties in the civil proceedings. On the other hand, the respondents in their counter says that since it is an

inam village, no FLR is available as reported by the Assistant Director of Survey and Land Records, Guntur, vide L.Dis.No.A2/ 204/ 2014, dated 02.04.2014 and as per the counter the record shows that it is classified as Krishna River Poramboke Lands. The case of the respondents is that the petitioners have no right over the property nor they are in possession of the same. In other words, in view of the interim order ie. *status quo* granted by this Court while admitting the writ petition, the government claims to be in possession of the property.

8) It appears that neither the Government has taken any steps pursuant to the order passed by the High Court in the year 1982 nor the petitioners made an application under Section 11-A of the Act. Before filing the writ petition, a representation is said to have made to the District Collector by the petitioners claiming to be the successors of the petitioners in earlier round of litigation.

9) In view of the above, treating this application as one under Section 11-A of the Act, the District Collector shall conduct an enquiry as directed earlier and pass appropriate orders in accordance with law, as early as possible, preferably, within a period of three months. Till such time, *status quo* as on today shall be maintained.

10) With the above direction, the writ petition is disposed of. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

JUSTICE C. PRAVEEN KUMAR

12.10.2018
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