

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT PETITION No. 25756 OF 2014

ORDER:

The petitioners seek writ of *mandamus* declaring the action of respondent Nos. 2 to 4 trying to decide title to the property in survey No. 175/2 to an extent of Ac. 8.16 cents in Pamuru Village and Mandal, Prakasam District, which is a private land, as illegal and arbitrary and consequently direct the respondents not to interfere with the aforesaid property.

2. The petitioners' case in brief is that petitioner No. 1 is power of attorney holder in respect of an extent of Ac. 4.24 cents in survey No. 175/2 and Ac. 1.12 cents in survey No. 178/4, totalling Ac. 5.36 cents, in Pamuru Village under a registered document No. 21 VK4/2005 dated 08-12-2005 executed by one G.Eswar Reddy. The total extent was divided into plots and sold to 138 persons. Petitioner No. 1 is also owner of an extent of Ac. 0.59 cents in survey No. 175/3 which is purchased from one Y.Lakshamma under a registered sale deed dated 28-09-2005. Petitioner No. 2 is owner of an extent of Ac. 2.15 cents in survey No. 175/2 of Pamuru Village purchased under registered sale deed dated 28-07-2004. Ac. 1.34 cents was sold to 26 members by dividing the extent into plots. Petitioner Nos. 3 to 10 purchased small extents of plots from petitioner No. 1.

While so, the further case of the petitioners is that respondent No. 4, without having any jurisdiction, directed Village Revenue Officer, Pamuru, on 06-08-2014 to issue notice

to the petitioners and in the said notice, the Village Revenue Officer mentioned that respondent No. 4 directed him to issue notice to all the concerned to produce documents pertaining to title to the land in survey No. 175/2 to the extent of Ac. 8.16 cents for perusal and taking necessary steps. The petitioners' case is that the land in question is a private patta land and Government have nothing to do with the property and therefore the impugned notice is without any semblance of jurisdiction. Hence, the Writ Petition.

3. Learned Assistant Government Pleader for Revenue appeared. No counter is filed.

4. As can be seen from the impugned notice dated 06-08-2014, it was issued by the Village Revenue Officer, Pamuru, to petitioner No. 1 and some third parties stating that in order to decide title of the land in survey No. 175/2 to an extent of Ac. 8.16 cents, the addressees were instructed to attend the office of Mandal Revenue Officer, Pamuru, on 10-08-2014 with their documents. As rightly contended by learned counsel for the petitioners, it is quite unknown as to how respondent No. 4 can decide title of the persons mentioned in the notice in respect of the land of Ac. 8.16 cents in survey No. 175/2. From the notice, it is not evident that Government is claiming any title or some right in the land in dispute. When enquired, learned Assistant Government Pleader, on instructions, would submit that the notice mentioned parties were trying to convert agricultural land of Ac. 8.16 cents in survey No. 175/2 into non-agricultural land without obtaining necessary permission from

the authorities and therefore the said notice was issued. However, learned Assistant Government Pleader admits that in the impugned notice, aforesaid fact and relevant law are not correctly mentioned. If that be the case of the respondents, they can issue a fresh notice in proper form so as to enable the writ petitioners and others, who received notice, to respond in a proper manner. However, the impugned notice in the present form is not maintainable. It appears from the notice, respondent No. 4 is embarking upon deciding title of the parties in respect of the land in an extent of Ac. 8.16 cents in survey No. 175/2. Hence, the impugned notice is liable to be struck down. It should be noted that W.P.M.P.No. 51056 of 2014 was filed by some third parties claiming right in the subject land *i.e.* Ac. 8.16 cents in survey No. 175/2 and they sought to be impleaded in the writ petition. Since the scope and ambit of this writ petition is only to decide validity of the impugned notice, *inter se* rights between the writ petitioners and the proposed parties cannot be determined in the writ petition and both parties can agitate upon their rights in respect of the disputed land before an appropriate forum.

5. With these observations, this Writ Petition is allowed and the impugned notice dated 06-08-2014 issued by the Village Revenue Officer, Pamuru, Prakasam District, is set aside giving liberty to the respondent authorities to issue a fresh notice to the concerned parties in proper form to enable them to respond.

6. Pending miscellaneous petitions, if any, shall stand closed in consequence. No costs.

24-12-2018.
JSK

U.DURGA PRASAD RAO, J.

