

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

MONDAY, THE TWELFTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY

PRESENT

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

WRIT PETITION NO: 17072 OF 2020

Between:

1. Gaddam Jyothi Babu, S/o. Late Raghavulu, aged 36 years, Caste ST
2. Gaddam Laxmi, W/o. Late Raghavulu, Aged 55 years, Occ. House wife, caste ST, R/o. H.No.D-C5
3. Lotapetala Ganapathi, S/o. Narsaiah, Aged 50 years, Occ. Coolie, caste BC, R/o. H.No.4-92
4. Matti Laxmaiah, S/o. Papaiah, Aged 55 years, Caste ST,
5. Sonapa Suseela, S/o. Satyanarayana, Aged 58 years, Caste ST,
6. Kakarlapudi Satyanarayana, S/o. Narayanamurthi, Aged 58 years, Caste OC,
7. Lenkala Shobha, W/o. Gattaiah, Aged 40 years, Caste BC, R/o. H No. 4-97,

(All are R/o. Cherukuru Village and GP, Wazeedu Mandal, Mulugu District, TS.)

...PETITIONERS

AND

1. The State of Telangana, rep by its Pri Secretary, Revenue Department Secretariat, Hyderabad.
2. The District Collector, Mulugu District, Mulugu.
3. The Revenue Divisional Officer, Mulugu, Mulugu District.
4. The Tahsildar, Wazeedu Mandal, Mulugu District.
5. Rega Kistaiah, S/o. Chinnaiah, Aged major, Caste ST, R/o. Cherukuru Village and GP, Wazeedu Mandal, Mulugu District, TS.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, order or Direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents particularly 4th respondent trying to evict the petitioners from their respective houses situated in Sy No. 145 to an extent of Ac.0.40 gts (1st petitioner), Ac.0.40 gts of 2nd petitioner, Ac.0.15 gts of 3rd petitioner, Ac.0.15 gts of 4th petitioner, Ac.0.15 gts of 5th petitioner, Ac.0.15 gts of 6th petitioner, Ac.0.45 gts of 7th petitioner respectively situated at Cherukuru Village and GP, Wazeedu Mandal, Mulugu District, TS without following due process of law which was allotted to the petitioners by the government under the scheme of Indiramma Housing Scheme in the year 2003 and without knowledge of the petitioners the 4th respondent had granted the patta bearing No. 348 in favour of the 5th respondent by allotting the said land of the petitioners to the 5th respondent without issuing any notice or without following due process of law is illegal, arbitrary and against the principles of natural justice and also violative of Articles 14, 19, 21 and 300-A of the Constitution of India and consequently direct the 4th respondent to cancel the patta bearing No. 170/148 granted in favour of the 5th respondent in connection with the petitioners house properties in the interest of justice

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents 2 to 4 not to interfere into the peaceful possession and enjoyment of the petitioners house properties situated in Sy No. 145 to an extent of Ac.0.40 gts (1st petitioner), Ac.0.40 gts of 2nd petitioner, Ac.0.15 gts of 3rd petitioner, Ac.0.15 gts of 4th petitioner, Ac.0.15 gts of 5th petitioner, Ac.0.15 gts of 6th petitioner, Ac.0.45 gts of 7th petitioner respectively situated at Cherukuru Village and GP, Wazeedu Mandal, Mulugu District, TS without following due process of law, pending disposal of the main writ petition

Counsel for the Petitioners: SRI PITTA SRINIVASA REDDY

Counsel for Respondent Nos. 1 to 4: AGP FOR REVENUE

Counsel for Respondent No. 5: -----

The Court made the following: ORDER

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

WRIT PETITION No.17072 of 2020

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioners, wherein, the following prayer is made:

"to issue a Writ, order or Direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents particularly 4th respondent trying to evict the petitioners from their respective houses situated in Sy.No.145 to an extent of Ac.0.40 gts (1st petitioner), Ac.0.40 gts of 2nd petitioner, Ac.0.15 gts of 3rd petitioner, Ac.0.15 gts of 4th petitioner, Ac.0.15 gts of 5th petitioner, Ac.0.15 gts of 6th petitioner, Ac.0.45 gts of 7th petitioner, respectively, situated at Cherukuru Village and GP, Wazeedu Mandal, Mulugu District, TS, without following due process of law which was allotted to the petitioners by the Government under the scheme of Indiramma Housing Scheme in the year 2003 and without knowledge of the petitioners the 4th respondent had granted the patta bearing No.348 in favour of the 5th respondent by allotting the said land of the petitioners to the 5th respondent without issuing any notice or without following due process of law is illegal, arbitrary and against the principles of natural justice and also violative of Articles 14, 19, 21 and 300-A of the Constitution of India and consequently direct the 4th respondent to cancel the patta bearing No.170/148 granted in favour of the 5th respondent in connection with the petitioners house properties in the interest of justice and to pass such other orders"

2. Heard the learned counsel for the petitioners, learned Assistant Government Pleader for Revenue appearing for respondent Nos.1 to 4 and perused the record.

3. Learned counsel for the petitioners would submit that the petitioner Nos.1 and 2 are owners and possessors of lands admeasuring Ac.0.40 gts each, petitioner Nos.3 to 6 are owners and possessors of lands admeasuring Ac.0.15 gts each and petitioner No.7 is the owner and possessor of land admeasuring Ac.0.45 gts in Sy.No.145, situated at Cherukuru Village and

Gram Panchayat, Wazeedu Mandal, Mulugu District. The said lands were assigned to the petitioners long back and they took permission from the concerned authorities and constructed houses. It is contended that without there being any being right, title or interest, the respondents are trying to evict the petitioners from their respective houses. To prove the ownership and possession over the subject property, the petitioners have filed photocopies of the assignment certificates, property tax receipts, electricity bills etc., and ultimately prayed to grant the relief as indicated above.

4. On the other hand, learned Assistant Government Pleader for Revenue would submit that the subject lands are assigned lands and they were originally assigned to respondent No.5-Rega Krishnaiah. It is further submitted that the respondent No.5 had filed a Civil Suit in O.S.No.60 of 2020 before the Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court, Bhadrachalam and also obtained injunction order against the petitioners. It is contended that petitioners were not issued any assignment certificates and the documents submitted by them are bogus. The petitioners have to agitate their rights in the said Civil Suit but not in this Writ Petition and ultimately prayed to dismiss the writ petition.

5. As submitted by the learned Assistant Government Pleader for Revenue, the subject lands are assigned lands and they were originally assigned to respondent No.5-Rega Krishnaiah, who also filed a Civil Suit in O.S.No.60 of 2020 before the Sub-

Divisional Magistrate and Special Assistant Agent to Government, Mobile Court, Bhadrachalam and obtained injunction order against the petitioners herein. The real dispute is in between two private individuals. The factual matrix of the case are allotment of assignment certificates and possession of the lands in question. So it is appropriate to state that when there is a serious dispute with regard to allotment of assignment, issuance of certificates, possession of the lands in question and more particularly, when there is a Civil Suit is pending and injunction order is prevalent, it is not appropriate to this Court to determine, who is in possession and grant any relief as prayed for. Under these circumstances, this Court decline to grant any relief in favour of the petitioners. However, the petitioners are entitled to workout the remedies before the appropriate Court.

6. With the above observations, this Writ Petition is disposed of. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

SD/- N.CHANDRA SEKHAR RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. One CC to Sri Pitta Srinivasa Reddy Advocate [OPUC]
2. Two CCs to GP for Revenue, High Court for the State of Telangana (OUT)
3. Two CD Copies

MBC



HIGH COURT

DATED: 12/10/2020



ORDER

WP.No.17072 of 2020

DISPOSING OF THE WRIT PETITION

WITHOUT COSTS

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28/10/20
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