

IN THE HIGH COURT OF ANDHRA PRADESH : AMARAVATI

HON'BLE SRI JUSTICE SUBBA REDDY SATTI

WRIT PETITION Nos.7829 and 11911 of 2023

W.P.No.7829 of 2023

Polapi Vasanthamma, W/o Late
Subramanyam, Aged about 65 years,
Occ. Housewife, R/o Bhaktavatsala
Nagar, Nellore-5 and another.

... Petitioners

Versus

The State of Andhra Pradesh, Rep by its
Principal Secretary, Revenue
Department, Secretariat, Velagapudi,
Amaravati, Guntur District and five
others.

... Respondents

Counsel for the petitioners : Smt Y.L. Siva Kalpana Reddy

Counsel for respondent Nos.1 & 2 : GP for Revenue

Counsel for respondent Nos.3 : GP for Irrigation

Counsel for respondent No.4 : Sri K. Suresh Kumar
Reddy

Counsel for respondent Nos.5 & 6 : Sri T.D. Phani Kumar

W.P.No.11911 of 2023

Konda Janardhan, S/o Raghava Reddy,
Aged about 53 years, R/o D.No.27-4-
768, Lakshminaagar, Balaji Nagar,
Nellore, SPSR Nellore District and
another.

... Petitioners

Versus

The State of Andhra Pradesh, Rep by its
Principal Secretary, Revenue
Department, Secretariat, Velagapudi,
Amaravati, Guntur District and four
others.

... Respondents

Counsel for the petitioners : Sri T.D. Phani Kumar

Counsel for respondent Nos.1 to 4 : GP for Revenue

Counsel for respondent Nos.5 & 6 : GP for Irrigation

Counsel for respondent No.4 : Sri K. Suresh Kumar
Reddy

Counsel for respondent Nos.8 & 9 : Smt Y.L. Siva Kalpana Reddy

COMMON ORDER

W.P.No.7829 of 2023 is filed to declare the action of respondent Nos.3 and 4 in interfering with the peaceful possession and enjoyment of the petitioners' house sites allotted by the 2nd respondent of an extent of 9 Ankanams each in Sy.No.607, Nellore Bit II *vide* proceedings RCB.273/13 dated 22.01.2013 as illegal and arbitrary.

2. **W.P.No.11911 of 2023** is filed to declare the action of respondent Nos.2 to 4 in not cancelling the house site pattas issued in favor of respondent No.7 to 9 of an extent of 9. Ankanams each in Sy.No.607 in Nellore Bit-II, Nellore District as illegal and arbitrary.

3. Since the subject matter in the above writ petitions is one and the same, they are disposed by this common order.

4. Heard Smt Y.L. Siva Kalpana Reddy, learned counsel for the petitioners in W.P.No.7829 of 2023 and Sri T.D. Phani Kumar, learned counsel for the petitioners in W.P.No.11911 of 2023; learned Assistant Government Pleader for Revenue, learned Assistant Government Pleader for Irrigation and Sri Anand Surya, learned counsel representing Sri K. Suresh Kumar Reddy, learned standing counsel appearing for the Corporation.

5. The pleaded case of the petitioners is that the then Tahsildar, Nellore granted house site patta *vide* RCB.273/13 dated 22.01.2013 to the petitioners of an extent of 9 ankanams each in Sy.No.607 and the petitioners have been in possession and enjoyment of the same. The petitioners filed photocopies of the pattas as Exs.P1 and P2. The petitioners also pleaded that prior to issuance of the pattas, the 2nd respondent obtained No Objection (NOC) from the 4th respondent. They further pleaded that an extent of 2-28 cents in Sy.No.607 is an abandoned channel and there is no

ayacut. The Executive Engineer, I&CAD, Nellore Central Division, Nellore addressed a letter to Superintended Engineer, Irrigation Circle in February, 2014, wherein it was mentioned that the channel was abandoned and extinct for more than two decades and there is no ayacut.

6. Counter affidavit was filed on behalf of the 2nd respondent in W.P.No.7829 of 2023, while it was not disputed about the issuance of pattas in favour of the petitioners, it was contended that an extent of Ac.2-28 cents in Sy.No.607 is classified as “Channel” as per RSR/Diglot of Nellore village. On ground the channel was abandoned and at present, on ground, it was covered with houses. In the year 2013, after getting NOC from the Commissioner, Nellore Municipal Corporation, the then Tahsildar, Nellore issued conditional house site pattas to the petitioners.

7. The 3rd respondent filed separate counter affidavit. It was contended, *inter-alia*, that the 2nd respondent issued house site pattas to the petitioners and the 4th respondent issued NOC to regularize the site as per the provisions of G.O.Ms.No.166 (Revenue) dated 16.02.2018. It was further contended that there is no ayacut under the irrigation

channel running in Sy.No.607. Though the pattas were granted, the petitioners have not raised any constructions. The 3rd respondent has not issued NOC to the petitioners. The NOC was granted in favour of Sri Noushad, cricket player of South India, upon his application. Without issuance of NOC, pattas could not have granted to the petitioners by the then Tahsildar.

8. The 4th respondent in W.P.No.7829 of 2022 filed counter affidavit. It was contended, *inter-alia*, that the petitioners were granted pattas only after the NOC was issued by the authority. Neither the Commissioner of the 4th respondent nor the staff interfered with the petitioners' possession of the property. One Sri D. Srinivasulu tried to construct a compound wall in Sy.No.607 and the staff demolished the construction on 30.08.2022 and 23.09.2022.

9. Implead petitioners 5 and 6 filed W.P.No.11911 of 2023 challenging the pattas issued to the writ petitioners in W.P.No.7829 of 2023. Implead petitioners would contend that as Sy.No.607 of Nellore Bit-II is a channel, the authorities could not have issued pattas to any individuals.

10. Learned counsel for the petitioners in both the writ petitions reiterated the contentions as per the averments made in the writ affidavits. The learned Assistant Government Pleaders for Revenue, Irrigation and learned counsel appearing for the Corporation reiterated the contentions as per the averments made in their respective counter affidavits and Sri T.D. Phani Kumar, learned counsel for the implead petitioners 5 and 6 reiterated the contentions as per the averments made in the affidavit of W.P.No.11911 of 2023.

11. As per the material available on record, there is no dispute regarding the issuance of house site pattas to the petitioners by the then Tahsildar, Nellore in the year 2013. It is also an undisputed fact that the pattas issued were in Sy.No.607 of an extent of 9 ankanams each. As seen from the available record, Sy.No.607 was described as 'Channel' as per RSR/Diglot of Nellore Village. The then Tahsildar, Nellore, after getting NOC from the Commissioner, Nellore Corporation issued house site pattas to the petitioners.

12. The counter affidavits filed on behalf of respondent Nos.2 to 4 would discern that the channel was abandoned

and there is no channel in existence and in fact, it was extinct. The letter addressed by the Executive Engineer, I & CAD to the Superintending Engineer, Nellore Irrigation Circle *vide* letter No.DB/ITO-4/A-9/118SE dated 26.02.2014, would manifest that the channel was abandoned and was extinct for more than two decades and there is no ayacut under the channel. The channel was occupied by various dwellers and pucca houses were constructed long back. It was further mentioned that there is no use of the land and it may be beneficial to the Government in the form of revenue, if the above land is alienated to the applicant on payment of market value. These observations were made in view of the application made by one Sk. Noushad, South Indian cricketer when he sought alienation of Sy.No.607, Nellore Bit-II Village.

13. Sri T.D. Phani Kumar, learned counsel appearing for the petitioners in W.P.No.11911 of 2023 would contend that the land being an irrigation land, it could not be converted as house sites and the authorities have to restore the land to its original position. Learned counsel places reliance upon ***Ramachandran v. State of Andhra Pradesh***¹.

¹ 2021 SCC OnLine AP 4213

14. Thus, as seen from the material available on record, there is no dispute regarding issuance of pattas in Sy.No.607 to the petitioners by the then Tahsildar, Nellore after obtaining NOC from the Commissioner, Nellore Municipal Corporation. The averments in the counter affidavits filed by the official respondents would manifest that there was no interference with the petitioners' possession over the property.

15. Since the authorities are asserting that they are not interfering with the petitioners' possession, the same is record.

16. In view of the averments made in the counter affidavits, the Writ Petitions are disposed of directing the official respondents not to interfere with the petitioners' possession of the property without following due process.

17. Since the petitioners in W.P.No.11911 of 2023 made application to the District Collector, Nellore and Tahsildar, Nellore Urban, to cancel the pattas granted to unofficial respondents, the respondent authorities shall consider the application, in accordance with law, and pass appropriate

orders after conducting due enquiry, i.e. issuance of notice to the assignees as well as writ petitioners. If such a notice is issued by the authorities, the assignees shall submit explanation by annexing all the relevant documents.

18. The respondent authorities shall conduct enquiry and pass appropriate orders as expeditiously as possible, in accordance with law. No order as to costs.

Miscellaneous petitions, if any pending, in this case, shall stand closed.

JUSTICE SUBBA REDDY SATTI

Date: 04.03.2024
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HON'BLE SRI JUSTICE SUBBA REDDY SATTI

WRIT PETITION Nos.7829 & 11911 of 2023

Date: 04.03.2024

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