

THE HON'BLE SRI JUSTICE SUBBA REDDY SATTI
WRIT PETITION No.11992 OF 2023

Between:

Gollapalli Srinu, S/o. Venkat Rao, aged about 39 years, Occ:
Agriculture, R/o. Bhimavaram Sivar, Gandluur Village,
Sattenapalli Mandal, Guntur District and another.

... Petitioners

Versus

State of Andhra Pradesh, represented by its Principal
Secretary, Revenue Department, Secretariat, Nelapadu,
Guntur District and two others.

... Respondents

Counsel for the petitioner : Sri P.S.P. Suresh Kumar
Counsel for respondents : Learned AGP for Revenue

ORDER

The above writ petition is filed under Article 226 of the
Constitution of India seeking the following relief:

“...to issue order or direction more
particularly in the nature of Writ of Mandamus,
declaring the action of the respondent No.3 in not
taking up Stay petition and not passing any
orders on the Stay petition filed by the petitioner
on 25.03.2022 challenging the orders passed by
the respondent No.4 in R.C.No.264/2020-BT,
dated 01.03.2023, as illegal and arbitrary ”.

2. The petitioners filed above writ petition seeking
issue Mandamus declaring the action of the 3rd respondent in
not taking up stay petition and passing appropriate orders

pending appeal filed by the petitioners, dated 25.03.2023 against the order of the 4th respondent in R.C.No.264/2020-BT, dated 01.03.2023, is illegal and arbitrary.

3. In the affidavit, it was contended that great-grandfather of the 1st petitioner is the absolute owner of the land to an extent of Ac.10.00 cents of Bhimavaram Sivaru, Gandluru Village, Sattenapalli Mandal. The great-grandfather executed Will in favour of the Venkaiah in respect of Ac.0.55 cents in R.S.NO.219-D; Ac.0.04 cents in Sy.No.192-C1; Ac.1.06 cents in Sy.No.192-C3. Grandfather acquired Ac.0.55 cents in Sy.No.302-1. Grandfather, inturn, executed Will in favour of 1st petitioner on 09.09.2014 bequeathing Ac.0.58 cents in Sy.No.302-1. After demise of the grandfather, the 1st petitioner came into possession and has been enjoying the property. Father of the 1st petitioner and his brothers partitioned the properties on 08.02.2019. In the said partition, according to the 1st petitioner, he got Ac.1.10 cents in Sy.No.192-C1 and Ac.0.55 cents in Sy.No.192-C3.

4. 1st petitioner got his name mutated in the Revenue Records in respect of the Ac.2.23 cents in Sy.No.302-1. 1st petitioner executed two registered gift deeds in favour of the 2nd petitioner on 06.08.2019. Name of the 2nd petitioner was also recorded in the revenue records. The 4th respondent issued

Pattadhar Passbook and title deed. Now, the official respondents are trying to interfere with the possession and enjoyment. The 2nd petitioner also filed O.S.NO.142 of 2020 on the file of Principal Junior Civil Judge, Sattenapalli, seeking perpetual injunction pending the suit. The 3rd respondent directed the 1st petitioner to appear before the authority. The 1st petitioner filed W.P.No.1101 of 2021 and Hon'ble High Court granted interim stay. The 6th respondent filed W.P.No.30519 of 2021. Both the writ petitions were disposed of by common order, dated 26.09.2022 and this court directed the Tahsildar/4th respondent to conduct the enquiry and to pass appropriate orders. The 4th respondent, by proceedings in R.C.No.264/2020-BT, dated 01.03.2023, cancelled the entries made in Katha No.1966 in favour of the 2nd petitioner. Aggrieved by the same, the petitioners an appeal before the 3rd respondent on 25.03.2023.

5. The petitioners also filed an application seeking stay of further proceedings, pursuant to orders passed by the 4th respondent 01.03.2023. However, the 3rd respondent, without passing any orders on the stay petition, keep on adjourning the appeal. Aggrieved by the same, this Writ Petition is filed.

6. Heard Sri P.S.P Suresh Kumar, the learned counsel for the petitioner and the learned Assistant Government Pleader for the Revenue for the respondents.

7. Statutory appeal is filed before the 3rd respondent along with stay application. The 3rd respondent being the appellate authority, is expected to pass orders in the stay application immediately. If the order under appeal is implemented, the very purpose of filing of stay petition will be defeated. Considering the facts and circumstances writ petition is disposed of. The 3rd respondent shall pass orders in the stay application filed by the petitioner as expeditiously as possible, within a period of two (02) weeks, strictly in accordance with law. Till orders are passed by the 3rd respondent in the stay application, the order passed by the 4th respondent, dated 01.03.2023 shall not be implemented. Order passed by this Court will not come in the way of the 3rd respondent in disposing of the stay petition, in accordance with law and on its own merits.

Accordingly, the Writ Petition is disposed of. No costs.

As a sequel, Miscellaneous Petitions pending, if any, shall stand closed.

JUSTICE SUBBA REDDY SATTI

05.05.2023
KMS

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Date : 05.05.2023
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