

IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI

HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

WRIT PETITION No.2634 of 2023

Nadella Ganga Raju, S/o.Somayya, aged about 60 years, Hindu, R/o.H.No.1-69, O.C.Colony, Maram Palli, Jajukunta, Dwaraka Tirumala, Gantavarigudem, West Godavari, Andhra Pradesh – 534 112 and nine others.

... Petitioners.

Versus

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

... Respondents.

Counsel for the petitioners : Chalasani Ajay Kumar

Counsel for respondents : GP for Revenue

ORDER

The above writ petition is filed seeking the following relief:

“... to issue a writ of *Mandamus*, declaring the action of the respondents herein in forcefully attempting to dispossess and taking possession of the lands of the petitioners in following survey numbers, Sy.No.56-2 bearing an extent of 11.26 cents, Sy.No.57-2E bearing an extent of 3.70 cents, Sy.No.37/1 bearing an extent of 7.50, Sy.No.57-2B bearing an extent of 2.00, Sy.No.37/1

bearing an extent 1.50, Sy.No.57-2D bearing an extent of 3.00, Sy.No.39-1 bearing an extent of 1.00, Sy.No.37/1A bearing an extent of 4.80, Sy.No.39-1 bearing an extent of 0.88, Sy.No.37/1 bearing an extent of 5.00, Sy.No.37-1-A26-B bearing an extent of 3.86, Sy.No.37/1 bearing an extent of 2.70, herein without issuing any notice as illegal, arbitrary and in violation of Article 14 and 300-A of the constitution of India and Consequently direct the respondents not to dispossess the petitioners herein in respect of their lands, forthwith and till such time not to dispossess them from their respective lands and to pass such other order or orders as this Hon'ble Court may deems fit, just and proper in the circumstances of the case."

2. The averments in the affidavit, in brief, are that the petitioners are having lands in different survey numbers in Tirumalapalem Village. It was averred in the affidavit that the ancestors of the petitioners left the road (Bandi Dari) in Survey No.37/2 for use of everyone. The respondents 4 and 5 are conducting the survey without issuing notice to the petitioners and proclaiming orally that the land will be allotted for house sites to the poor people. Against the said action, the petitioners approached this Court.

3. The 4th respondent filed counter affidavit. In the counter affidavit it was contended that an extent of Ac.16.47

cents in RS.No.37/2 is classified as Bandidari Poramboke. The petitioners are adjacent farmers of Bandidari Poramboke. The landless poor people in that village made representation to Gram Panchayat at Tirumalapalem and requested to allot house sites. The Grampanchayat passed resolution on 01.12.2022 vide Resolution No.20 and requested the Mandal Revenue Officer, Dwaraka Tirumala to survey Bandidari Poramboke and fix boundaries. The 4th respondent issued instructions to Mandal Revenue Officer, Dwaraka Tirumala and Village Revenue Officer of Tirumalapalem to survey the land in No.37/2 and fix the boundaries. The Mandal surveyor prepared survey notices to the surrounding ryoths. However, since they are not available in respective village and residing in that village survey notices were not served. Part of Bandidari was encroached by the farmers. Hence, notice under Section 7 of the Andhra Pradesh Land Encroachment Act-III, 1905 was issued to the each occupier on 10.01.2023. However, none of the encroacher submitted explanation. Hence, order under Section 6 of Andhra Pradesh Land Encroachment Act-III, 1905 vide ROC.No.43/2023/(DT), dated 26.01.2023 was issued. The encroachment land was handed over to Panchayat Secretary *vide* proceedings

No.115/2022 (DT), dated 03.02.2023 for safe custody and thus, prayed the Court to dismiss the writ petition.

4. In the counter, it was further contended that the respondents are not proposing to provide house site pattas to the poor people in RS.No.37-2 of Bandidari Poramboke in Tirumalapalem Village. Authorities are not disturbing the existing bandidari with width 35 links.

5. Heard Sri.Chalasani Ajay Kumar, learned counsel for petitioner and the learned Government Pleader for Revenue for respondents.

6. Learned counsel for the petitioners would submit that without serving notice, the authorities conducted survey and the notices under Sections 6 and 7 of the Act were not served on each of the petitioner. Learned government pleader reiterated the contentions in the counter affidavit.

7. The petitioners are the owners of respective lands and they filed passbooks and other material in support of the claim of ownership over the property. However, the counter affidavit filed by the respondents would disclose that 12 persons encroached different extents of land in RS.No.37-2

classified as Bandidari Poramboke. The authorities issued valid proceedings under the Andhra Pradesh Land Encroachment Act-III, 1905 and issued notice under Section 7 to the petitioners and passed order under Section 6 of the Andhra Pradesh Land Encroachment Act, 1905. The counter affidavit filed by the 4th respondent would further disclose that Bandidari in RS.No.37-2 is 35 links and they are not proposed to provide house pattas. Thus the apprehension of the petitioners that the respondent authorities are assigning house site pattas in bandi dari does not survive. The statement made in the counter affidavit is clear and unequivocal.

8. Be that as it may, since the orders under Section 6 of the Act III of 1905 were passed and the same was filed along with the counter affidavit, it is open to the petitioners to challenge the same before appropriate Forum within a period of two weeks from the date of receipt of a copy.

9. With the above direction, the writ petition is disposed of. No order as to costs.

As a sequel, pending miscellaneous petitions, if any,
shall stand closed.

JUSTICE SUBBA REDDY SATTI

11th May, 2023
KGM

HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

WRIT PETITION No.2634 of 2023
Dated 11.05.2023

KGM