

HONOURABLE SRI JUSTICE ASHUTOSH MOHUNTA

WRIT PETITION No. 15009 of 2011

DATED 20TH July, 2012

BETWEEN

Kalidindi Ravi Kumar and two others

.....Petitioners

and

Government of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and ors.

.....Respondents

HONOURABLE SRI JUSTICE ASHUTOSH MOHUNTA

WRIT PETITION No. 15009 of 2011

ORDER:

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This Writ Petition is filed questioning the action of the fourth respondent in trying to fix the boundaries to the property of the petitioners situated in Survey Nos. 5,7 and 31 of Kella village, Gurla Mandal in Vizianagaram District, without issuing any prior notice and thereby trying to dispossess them from the said property, as illegal, arbitrary and without jurisdiction.

The petitioners claim to be the absolute owners and

possessors of the lands in an extent of Ac.8.70 cents in Sy.No. 5-P, Ac.1.92 cents in Sy.No. 7 and Ac.0.75 cents in Sy.No. 31 respectively of Kella village, Gurla Mandal, Vizianagaram District, having been purchased the same under registered sale deeds in the years 2002 and 2005. It is stated that they have also been issued with pattadar pass books with respect to the said lands by the official respondents.

While the matter stood thus, the unofficial fifth and sixth respondents herein had filed Writ Petition No. 2024 of 2008 before this Court seeking a direction to the Mandal Revenue Officer, Gurla Mandal, the fourth respondent herein to consider their representation dated 24.1.2008 for issuance of Pattadar Pass Books and title deeds in favour of the fifth respondent with respect to the subject land on the ground that the fifth respondent had purchased the subject land from the sixth respondent under registered sale deed dated 18.1.2008 and the said writ petition was disposed of by this Court by its order dated 14.10.2008 directing the petitioners to make a proper application as contemplated under Section 6.A of the A.P Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the ROR Act') and the respondents shall consider and dispose of the same. Questioning the said order, the petitioners herein had filed Writ Appeal (SR) .No. 53331 of 2010 with necessary Leave Application on the ground that they were not made as parties to the Writ Petition No. 2024 of 2008. It is stated that the said Writ Appeal is still pending adjudication before this Court.

Be that as it may, pursuant to the contempt proceedings initiated by the fifth and sixth respondents for non obedience of the order dated 14.10.2008 passed in Writ Petition No.2024 of 2008, the third respondent issued notice dated 7.4.2010 asking the petitioners to show cause as to why the pattadar pass books issued in their favour with respect to the subject land should not be cancelled since the subject Inam lands are not converted into Rytwari Tenure lands. Thereafter, pursuant to the said notice, the third respondent passed an order on 24.4.2010 cancelling the pattadar pass books issued in favour of the petitioners. Questioning the same, the petitioners had filed Writ Petition No.10321 of 2010 on the ground that the third respondent-RDO has no jurisdiction to pass the said order and the said Writ Petition is also stated to be pending consideration before this Court. Simultaneously, the petitioners had also preferred an appeal before the Joint Collector—Seventh respondent against the order dated 24.4.2010 as contemplated under the ROR Act and it is stated that the said appeal is also pending consideration before the appellate authority.

Before initiation of the Writ proceedings before this Court as stated supra, it appears that the fifth and sixth respondents instituted a suit in O.S.No. 15 of 2008 on the file of the learned District Judge, Vizianagaram, seeking a declaration in respect of the subject land and to counter blast the same, the petitioners herein also instituted a suit in O.S.No. 42 of 2008 on the file of the learned Principal Junior Civil Judge, Vizianagaram and it is stated that both the above

suits are still pending adjudication before the respective lower Courts.

As the matters stood thus, the grievance of the petitioners at present is that pursuant to the order dated 24.4.2010 passed by the third respondent cancelling the pattadar pass books issued in their favour, the fourth respondent is contemplating an action to fix the boundaries to the subject land and so on and so forth.

This Court while admitting the Writ Petition on 6.6.2011, granted interim direction directing the fourth respondent not to interfere with the peaceful possession and enjoyment of the petitioners over the subject property.

Responding to the notices issued by this Court in the case on hand and granting of interim direction thereon, the fifth respondent herein filed WVMP.No. 2021 of 2011 seeking to vacate the aforesaid interim order. In the affidavit accompanying the Vacate Stay Petition, it is stated that the property in question was the subject matter of public auction proceedings in the suit in O.S.No. 33 of 1919 and the father of the sixth respondent purchased the same from the auction purchasers and thereafter the sixth respondent sold the same to the fifth respondent under registered sale deed dated 18.1.2008. It is stated that pursuant to the order of this Court dated 14.10.2008 in Writ Petition No. 2024 of 2008, she filed an application in the prescribed formant and thereafter, the respondent authorities issued pattadar pass books in her favour with respect to the subject property. When the

respondent authorities did not take any action on her application dated 18.9.2010 to survey and demarcate the subject land, she filed Writ Petition No. 12003 of 2011 and the same was disposed of by an order dated 27.2.2011 directing the respondent authorities to conduct survey and demarcate the subject land. When the action was being contemplated, the petitioners have filed the present Writ Petition and got interim direction restraining the respondent authorities to conduct survey and demarcation in respect of the subject land. Except admitting that the suits filed by them as well as petitioners, and, Writ Petitions, Writ Appeal and appeal against the order dated 24.4.2010 filed by the petitioners are pending adjudication, the fifth respondent denied all other averments made in the accompanying writ affidavit.

Heard the learned Counsel on either side. The learned Counsel on either side while putting forth their respective contentions, pleaded necessary provisions of the law and drew the attention of this Court to the relevant facts that have bearing on the matter for adjudication of the present Writ Petition.

From the aforesaid factual scenario, it is palpable that the proceedings, in WA (SR).No. 53331 of 2010, Writ Petition No.10321 of 2010, a statutory appeal against the order dated 24.4.2010 passed by the third respondent and suit in O.S.No.42 of 2008, filed by the petitioners are pending adjudication and it appears that virtually no interim orders either suspending the orders which are not in their favour or

restraining the respondent authorities to proceed against the subject property were passed therein. Even in the suit in O.S.No. 15 of 2008 filed by the fifth and sixth respondents is also pending adjudication. Pertinent to remember, as proceedings have been instituted by the parties seeking specific reliefs/directions, but no final or interim orders are passed therein, the respondent authorities are not stopped to initiate necessary action with respect thereto, in accordance with law.

It is conspicuous that pursuant to the notice dated 7.4.2010 asking the petitioners to show cause as to why the pattadar pass books issued in their favour with respect to the subject lands could not be cancelled, the third respondent-Revenue Divisional Officer, after conducting an enquiry, passed order dated 24.4.2010, against which, the petitioners have filed Writ Petition No. 10321 of 2010 before this Court and the same is said to be pending adjudication. Apart from the above said Writ Petition, the petitioners had also preferred an appeal under the ROR Act before the 7th respondent-Joint Collector, which is also pending adjudication. Pursuant to the order dated 24.4.2010, the petitioners have raised several contentions, stating that the third respondent-Revenue Divisional Officer lacks jurisdiction, no prior notice was issued etc., This Court is not inclined to go into merits or demerits of the aforesaid contentions as well as the order dated 24.4.2010 since a statutory appeal as provided under the ROR Act preferred by the petitioners is pending adjudication and any finding

recorded in this Writ Petition might prejudice the rights of the parties in the alternative remedy of statutory appeal exercised by the petitioners. The petitioners can as well raise all their contentions as were raised in this Writ Petition before the appellate authority, which would consider the same in accordance with law.

Now, coming to the relief as prayed for in this Writ Petition, it is to be seen that after cancellation of the pattadar pass books issued in favour of the petitioners with respect to the subject property and necessary correction of the entries made in the revenue records with respect thereto, and after issuance of a Ryotwari Patta in her (fifth respondent) under Section 4 of the Andhra Inams Abolition and Conversion into Ryotwari Act, 1956, the fifth respondent filed Writ Petition No. 12003 of 2011 seeking a direction to the respondent authorities to consider her application dated 18.09.2010 for conducting a survey and fixing the boundaries in respect of the subject land, and this Court by its order dated 27.4.2011 directed the respondents to do the needful in the matter in accordance with due procedure, within a time frame. The said order having not been challenged attained finality. That being so, the respondents are contemplating necessary action pursuant thereto. Trite to state, contemplation of action by the respondent authorities pursuant to the orders of this Court as in the aforesaid Writ Petition cannot be questioned in yet another successive Writ Petition. In the light of the reasons discussed herein above, no relief as prayed for by the petitioners in the case on hand can be granted.

In the result, the Writ Petition merits no consideration and the same is accordingly dismissed. As a sequel thereto, the miscellaneous petitions, if any pending, shall stand dismissed. There shall be no order as to costs.

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JUSTICE ASHUTOSH MOHUNTA

Dated 20th July, 2012.
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