

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.22132 OF 2002

30.09.2010

Between:

Yallanti Seetharamireddy
And others.

...Petitioners

AND

The District Collector, Nellore,
And others.

...Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.22132 OF 2002

ORDER:

The petitioners filed the instant writ petition for a mandamus declaring the action of respondents 1 and 2 in seeking to dispossess the petitioners without considering the representation made by them on 01.11.2002 for rectification of boundaries of the land assigned to petitioners and third respondent as illegal and arbitrary.

The case of the petitioners, in brief, is that first petitioner was assigned land admeasuring Acs.4.00 in S.No.521-C situated at Kolanakuduru Village of Manubolu Mandal in Nellore District on 05.11.1992 and that petitioners 2 to 7 were assigned lands admeasuring Acs.2.50 each on 20.06.1998 comprised in various survey numbers of the same village. They brought the land under cultivation and have been in possession of the land. Third respondent filed O.S.No.152 of 2001 on the file of the Court of the Junior Civil Judge, Gudur, for permanent injunction against one K.Madhusudhan Reddy and eight others. He claimed right to the suit schedule land under registered lease deed date 29.10.1991 executed by the Government of Andhra Pradesh for the purpose of prawn culture. They also further allege that the third respondent produced the documents showing the boundaries, which he tampered. The petitioners, therefore, filed an application before the Mandal Revenue Officer for rectification of the boundaries and for taking necessary action against the third respondent, in vain. In the meanwhile at the instance of third

respondent, second respondent is trying to dispossess the petitioners.

The first respondent has not filed counter affidavit though the writ petition was admitted a decade ago. The partner of the third respondent firm filed counter affidavit. Their case is that the Commissioner of Fisheries granted lease of 40 hectares in survey No.521-C of Kolanakuduru Village in favour of CHAMAUS Prawn Culture Farms, third respondent herein (CHAMAUS, for brevity) vide proceedings dated 13.04.1991. The lessee entered into a registered lease deed with Department of Fisheries on 29.10.1991. When the land was not handed over, CHAMAUS filed W.P.No.2626 of 1994 seeking delivery of possession. An interim direction was issued by this Court, pursuant to which possession was delivered to Assistant Director, who in turn, in 1994, delivered possession to CHAMAUS but the passage of 500 meters (approached road) was not indicated. CHAMAUS then filed W.P.No.13881 of 2001 seeking direction to revenue department not to assign the land meant for passage to third parties. The High Court passed orders on 10.07.2001 directing revenue administration prohibiting assignment of land covered by survey No.521-C (totally admeasuring about 2,500 acres) otherwise than for the purpose of prawn culture. The allegation that the land was assigned to petitioners is denied. Even if it is true, the petitioners cannot claim any possession over that part of the land demarcated for prawn culture. The revenue administration has not demarcated any land for the purpose of assignment and therefore, the plea that the petitioners are in possession is not correct. The petitioners did not raise any crop in the land.

This Court heard counsel for petitioners and the Assistant Government Pleader for Revenue.

Indisputably the total extent of land comprised in survey No.521-C of Kolanakuduru Village of Manubolu Mandal is 2,500 acres. There is also no serious dispute that CHAMAUS was granted lease in respect of 40 hectares of land (about 88 acres). Therefore, the contention of petitioners that they were assigned lands (each Acs.2.50) in 1998 in various sub-division numbers of survey No.521-C cannot be brushed aside assuming that the land assigned to third respondent and petitioners is one and the same. Even if there is some overlapping, the issue has to be sorted out by the revenue authorities and writ petition is not proper remedy. Presumably for this reason, petitioners already approached the District Collector, Nellore, for necessary redressal. Indeed, as pointed out by counsel for petitioners, the petitioners were not parties to earlier writ petitions filed by third respondent. Any directions of this Court cannot bind them. Even at this stage, nothing prevents the district revenue administration to consider

whether 500 meters of passage, over which there is a dispute among rival assignees, is land assigned to petitioners or leased to third respondent. This Court, therefore, is of considered opinion that the matter should be enquired into by District Collector to find alternatives, so that petitioners' right to enjoy the assigned lands is not defeated. It shall also be open to the District Collector to provide alternative passage – if not already provided; to the third respondent.

The writ petition is accordingly disposed of. No costs.

(V.V.S.RAO, J)

30.09.2010

Pln