

**IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI
(Special Original Jurisdiction)**

**MONDAY, THE THIRTY FIRST DAY OF JULY
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HON'BLE SRI JUSTICE D.V.\$S.SOMAYAJULU



WRIT PETITION NO: 1761 OF 2012

Between:

P.S. Sarswathamma, W/o. P.R. Shankaraiah, Aged about 56 Years, Occ: Agriculture, R/o. D.No. 27/138-10, Rahamath Nagar, Punganur Mandal, Chittoor District.

...PETITIONER

AND

- 1. The State of Andhra Pradesh, Rep. by its District Collector Chittoor, Chittoor District.**
- 2. The Revenue Divisional Officer, Madanpalle Revenue Division Chittoor District.**
- 3. The Tahsildar, Punganur Mandal Chittoor District.**

(Cause Title of R-2 is amended as per Court Order dated 19-04-2012)

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate order or direction more particularly one in the nature of writ of Mandamus declaring the inaction on the part of the respondent No. 3 in not considering the petitioner request for grant of assignment for the land in an extent of Ac. 1.66 cents on Sy. No. 24/1 of Melupatla village, Punganur Mandal, Chittoor District which is in the petitioner possession and enjoyment for the last 30 years as arbitrary, illegal, abdication of the statutory duty cast on him and violative of the fundamental rights guaranteed to the petitioner under Articles 14 and 21 of Constitution of India and consequently direct the respondent No. 3 to consider the petitioner representations and grant assigned for the land in an extent of Ac. 1.66 cents on Sy. No. 24/1 of Melupatla Village, Punganur Mandal, Chittoor District.

I.A. NO: 2 OF 2012(WVMP. NO: 2955 OF 2012)

Between:

- 1. The State of Andhra Pradesh, Rep. by its District Collector Chittoor, Chittoor District.**
- 2. The Revenue Divisional Officer, Madanpalle Revenue Division Chittoor District.**

3. The Tahsildar, Punganur Mandal Chittoor District.

...PETITIONERS/RESPONDENTS

AND

P.S. Sarswathamma, W/o. P.R. Shankaraiah, Aged about 56 Years, Occ: Agriculture, R/o. D.No. 27/138-10, Rahamath Nagar, Punganur Mandal, Chittoor District.

...RESPONDENT/WRIT PETITIONER

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased vacate the interim order granted in W.P.M.P.No.2178 of 2012 in W.P.No.1761 of 2012 dated 25.1.2012 pending disposal of the Writ petition.

I.A. NO: 1 OF 2012(WPMP. NO: 2178 OF 2012)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents not to dispossess the petitioner from the land an extent of Ac. 1.66 cents on Sy. No. 24/1 of Melupatla village, Punganur Mandal, Chittoor District, pending disposal of the above Writ Petition.

Counsel for the Petitioner : SRI V. R. REDDY KOVVURI

Counsel for the Respondents: GP FOR REVENUE

The Court made the following: ORDER

HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU**WRIT PETITION No.1761 of 2012****ORDER:**

This Writ Petition is filed for the following relief:

"...to issue an appropriate Writ or order or direction, more particularly one in the nature of Writ of Mandamus, declaring the inaction on the part of the respondent No.3 in not considering the petitioner request for grant of assignment for the land in an extent of Ac.1-66 cents on sy.No.24/1 of Melupatla Village, Punganur Mandal, Chittoor District which is in the petitioner possession and enjoyment for the last 30 years as arbitrary, illegal, abdication of the statutory duty cast on him and violative of the fundamental rights guaranteed to the petitioner under Articles 14 and 21 of Constitution of India and consequently direct the respondent No.3 to consider the petitioner representations and grant assignment for the land in an extent of AC.1-66 cents on sy.No.24/1 of Melupatla Village, Punganur Mandal, Chittoor District and pass such other order or orders as are deemed fit and proper in the circumstances of the case."

2) In view of the urgency being expressed by the learned counsel for the petitioner, the Writ Petition itself is taken up for hearing.

3) This Court has heard Sri Abhay Siddhanth, learned counsel representing Sri V.R.Reddy Kovvuri, learned counsel for the petitioner and Sri P.Subhash, learned Government Pleader for Revenue.

4) Learned counsel for the petitioner argues in line with what is stated in the writ affidavit. He points out that the petitioner has been in possession and enjoyment of the land an extent of Ac.1-66 cents situated in Sy.NO.24/1 of Melupatla Village, Punganur Mandal, Chittoor District for more than 30 years. Relying upon the copies of the documents filed, learned counsel argues that the petitioner's possession and enjoyment is proved and that the petitioner is, therefore, entitled to claim the relief, particularly as she is landless poor women belonging to the schedule Caste. It is also submitted that under B.S.O.-15 the land can be assigned in favour of the writ petitioner. She also made a representation for assignment of the said land on humanitarian grounds and to grant her DKT patta, but the same is not acted upon. Hence the Writ Petition.

5) In reply to this Sri P. Subhash, learned Government Pleader argues the matter at length. He strongly denies the petitioners' possession and enjoyment of the land. It is his contention that the documents filed do not inspire any confidence whatsoever and were not issued by a proper authority or person. He also points out that this land in question is classified as "Kalava poramboke" and that it cannot be assigned at all, more so by the 3rd respondent. At the direction of this Court a Memo was filed in which a copy of the Fair Adanagal (SLR) is annexed along with Adangals (Fasli 1420 and 1432) showing the classification of the land as "Kalava Poramboke" (Canal / Tank Poramboke). He also relies upon BSO-15 (4) (ii) (a) to (k) and submits that the assignment of Poramboke land classified as tank-bed is totally prohibited. Relying upon the judgment of the Hon'ble Supreme Court of India in ***Hinch Lal Tiwari v Kamaladevi***¹ which is mentioned in the counter affidavit, he submits that a duty is cast upon the Court to protect the Tank-bed (kalava poramboke). Therefore, he points out that this judgment

¹ 2001 (6) SCC 496

related to kalava poramboke only. Therefore, prays the writ petition should be dismissed.

6) This Court after examining the contentions of either parties notices that in the adangal copy filed the writ petitioner signed by the Village Administrative Officer only. The land in Sy.No.24/1 measuring Ac.1-66 cents shown to be in the possession of the writ petitioner. The authority and power of the V.A.O. is strongly denied and nothing is contrary has been produced. Receipts, which are filed, of the taxes paid relating to the years of 1990 to 1995 only. The alleged possession of 30 years is not borne out by record. Learned Government Pleader has also relied upon G.O.Ms.No.33, dated 10.01.1984, wherein agriculture tax assessment was waived. Therefore, he submits that even the tax receipts that are produced are suspect. The contents of these documents are also contrary to record filed by the respondents relating to later years also, which clearly shows that the land is still classified as "kalava poramboke". The judgment relied upon also states that these resources must be protected.

7) In the light of the very clearly disputed facts, this Court is of the opinion that it is clear that the petitioner is not entitled to any relief. Even on a question of law since the land is classified as Kalava Poramboke the same cannot be assigned. Therefore, both on fact and law, the petitioner is not entitled to any relief.

8) Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

9) Consequently, Miscellaneous Applications pending, if any, shall also stand dismissed.

Sd/- A.VIJAYA BABU
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. One CC to Sri V. R. Reddy Kovvuri, Advocate [OPUC]
2. Two CCs to GP for Revenue, High Court of Andhra Pradesh. [OUT]
3. Two C.D. Copies

Cnr

gl

(sarah)

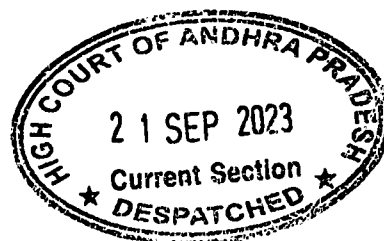
HIGH COURT

DATED:31/07/2023

ORDER

WP.No.1761 of 2012

5 Copies
4 vs 5
26/8/23



**DISMISSING THE W.P.
WITHOUT COSTS**