

**THE HON'BLE SRI JUSTICE RAVI CHEEMALAPATI**

**WRIT PETITION NO.19550 OF 2019**

**ORDER:**

This writ petition is filed under Article 226 of the Constitution of India seeking the following reliefs:

*"...to issue an appropriate Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the Respondent No.2 to 4 in interfering and threatening to dispossess the petitioner from the agriculture land admeasuring Ac.1.14 Cents in Rs.No.340/1 now sub divided as (340/1c Ac.0.70 Cents and 340/1D Ac.0.44Cents of Chelluru Village, Rayavaram Mandal, East Godavari District, Andhra Pradesh without any notice and right as arbitrary, illegal, discriminative, in violation of principles of natural justice, violative of the Fundamental Right guaranteed and contrary to the Judgments in L.R.A.No.117 of 1989 dated 09.12.1993 on the file of the Land Reforms Appellate Tribunal, East Godavari, Kakinada and contrary to the provision of A.P.Tenancy Act, 1956 and the Andhra Pradesh Land Reforms (Ceiling On Agricultural Holdings) Act, 1973..."*

2. This writ petition is filed by the sole petitioner. Consequent to his death, pendentelite, the petitioners 2 to 4 came on record as his legal heirs. The case of the petitioners is that the first petitioner was tenant of the agriculture land admeasuring Ac.1.14 cents in R.S.No.340/1 now sub-divided as (340/1c Ac.0.70 cents and 340/1D Ac.0.44 cents) of Chelluru Village, Rayavaram Mandal, East Godavari District and one late Pothula Ganneyya was also tenant of late Marni Gowtheyya from the year 1970 and in the year 1973 the Andhra Pradesh Land

Reforms (Ceiling on Agricultural Holdings) Act, 1973 came into force and owner of the lands had surrendered the lands in excess which are in their possession. As such, the 1<sup>st</sup> petitioner and the said Gowtheyya filed L.C.C.No.1545/RMM/75 on the file of the Land Reforms Tribunal, Kakinada and the same was dismissed by order, dated 10.09.1989 and aggrieved by the same, they filed appeal L.R.A.No.117 of 1989, on the file of the Land Reforms Appellate Tribunal, East Godavari, Kakinada and the same was allowed. Later the said Gowtheyya died without any legal heirs and the 1<sup>st</sup> petitioner is in possession of the said land as tenant by eking out his livelihood. The respondents 2 to 4 without verifying the above facts and orders are interfering with his possession claiming that they are going to take possession of the lands surrendered by the original owner. The respondent authorities visited the subject lands on 26.11.2019 and without any notice and proceedings, directed the 1<sup>st</sup> petitioner to vacate the same stating that the said lands are required for Government purpose. Hence, the present writ petition is filed.

3. The 4<sup>th</sup> respondent/Tahsildar filed counter denying the allegations inter alia contending that, the respondent authorities are not trying to dispossess the 1<sup>st</sup> petitioner from the entire extent of Ac.1.14 cents. The 4<sup>th</sup> respondent inspected the land

and found that the cultivating tenants failed to remit the maktha after the year 2012 and one of the cultivating tenant i.e., Pothula Ganniyya died without legal heirs to him and his portion was also unauthorizedly occupied by the 1<sup>st</sup> petitioner as such the Government has initiated action for resuming share of the deceased cultivating tenant i.e., Ac.0.57 cents only. The writ petition is devoid of merits and not tenable under law, as such, prayed to dismiss the writ petition.

4. Heard Sri Srinivasa Basava, learned counsel for the petitioners and the learned Assistant Government Pleader for respondents.

5. Learned counsel for the petitioners in elaboration to what has been stated in the affidavit contended that the petitioners' rights have been declared that 1<sup>st</sup> petitioner was cultivating tenant vide order in L.R.A.No.117 of 1989, dated 09.12.1993 and the petitioners are in possession and enjoyment of the subject land. Learned counsel further contended that, the 4<sup>th</sup> respondent has categorically stated that in so far as the land to an extent of Ac.0.57 cents of late Pothula Ganniyya concerned only they are taking steps to resume the said land but the authorities, under the guise of the same without issuing notice

and without looking into the record, highhandedly trying to dispossess the petitioners from the subject land, hence, prayed to pass appropriate orders in that regard.

6. On the other hand, learned Assistant Government Pleader while reiterating the contents what has been stated in the counter contended that, the respondent authorities never interfered with the possession of the petitioners land in an extent of Ac.0.57 cents and they are only resuming the land to an extent of Ac.0.57cents of late Pothula Ganniyya and requested to dismiss the writ petition.

7. On perusal of the record, it is the grievance of the petitioners is that the respondent authorities are trying to dispossess the petitioners from their land to an extent of Ac.1.14 cents without following the due process of law and in the counter, the respondent authorities clearly stated that they never tried to interfere with the possession of the petitioners' land and they are resuming the land to an extent of Ac.0.57 cents of the deceased tenant only.

8. In view of the above facts and circumstances of the case, considering the submissions made by the learned counsel on both sides and since the respondent authorities have admitted

that the petitioners are in unauthorized occupation of Ac.0.57 cents of the deceased tenant and since they admitted that they are not interfering with the possession of the petitioners' land, this Court is inclined to dispose of the writ petition with the following direction:-

i) The respondents are directed not to interfere with the possession of the petitioners over the land to an extent of Ac.1.14 cents in R.S.No.340/1 now sub-divided as (340/1c Ac.0.70 cents and 340/1D Ac.0.44 cents) of Chelluru Village, Rayavaram Mandal, East Godavari District without following the due process of law.

9. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

Consequently, miscellaneous petitions, pending if any, shall stand closed.

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**JUSTICE RAVI CHEEMALAPATI**

Dated : 31.01.2023

SPP

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