
(2010) 01 AP CK 0020

In the Andhra Pradesh High Court

Case No : Writ Petition No. 15148 of 2002

Kallam Subba Reddy and Others

APPELLANT

Vs

District Collector and Another

RESPONDENT

Date of Decision : 21-01-2010

Acts Referred:

Citation : (2010) 6 ALD 696 : (2010) 3 ALT 52

Hon'ble Judges : C.V. Nagarjuna Reddy, J

Bench : Single Bench

Advocate : Kuriti Bhaskara Rao, for the Appellant; Assistant G.P., for the Respondent

Judgement

C.V. Nagarjuna Reddy, J.—This Writ Petition is filed for a Mandamus to declare the inaction of the respondents, in issuing ryotwari patta to the petitioners in respect of Ac.5-90 cents of land comprised in Survey No. 190 (old Survey No. RS.127) of Kallamvaripalem Village, Devarapalli, Krishna District, as illegal and contrary to judgment, dated 31-03-1997, in L.P.A. No. 233 of 1986.

2. I have heard Sri Kuriti Bhaskara Rao, learned Counsel for the petitioners, and perused the record.

3. The petitioners, who were in occupation of certain accreted lands formed on account of change of course of Krishna river, filed O.S. No. 56 of 1975 on the file of the Subordinate Judge, Vijayawada, for declaration that they have acquired legal title and also for permanent injunction restraining the State of Andhra Pradesh and its subordinates from interfering with their peaceful possession and enjoyment thereof. The said suit was dismissed, and therefore, A.S. No. 549 of 1978 was filed by the petitioners in this Court. The appeal was also dismissed. However, in L.P.A. No. 233 of 1986, filed by the petitioners, a Division Bench of this Court through judgment, dated 31st March, 1997, reversed the judgments and decrees in the above suit and the appeal and granted decree in favour of the petitioners. For the purpose of disposal of this Writ Petition, it is useful to

reproduce the relevant portion of the judgment in the said LPA:

When the accreted land was to the southern side of the patta land and when the plaintiffs and their predecessors in title have been in possession of the accreted land, the subject matter of the suit, we are unable to comprehend how the case of the plaintiff can be rejected. As already stated by us in the beginning, the error committed by the learned trial Court Judge was in thinking that the accreted land was in existence even prior to 1959 when the patta was granted. As already noticed, the evidence on record, points out that the accretion was subsequent to 1959. If that be so, the plaintiff's right to the land in question cannot be rejected. The view expressed by the learned single Judge of this Court that where the accretion happens to be a large extent of land, the same should go to the State and if it is a small extent, the adjacent owner should be benefited is without any foundation either in legal principle or precedent. We have asked the learned Assistant Government pleader to cite any authority in the form of an opinion of a textbook writer or a precedent lending support to the view of the learned single judge but the learned Government Pleader has expressed her inability. We also could not secure any authority or principle supporting the view taken by the learned single Judge.

In the result, the Letters Patent Appeal is allowed. The judgment of the learned single Judge and the learned trial Judge are set aside and the suit is decreed. Each party shall bear its own costs throughout.

4. As a result of the judgment in the said LPA, the title of the petitioners has been declared and the Government and its subordinates have been restrained by way of permanent injunction from interfering with the possession and enjoyment of the petitioners. Thus, the decree itself operates as a document of title in favour of the petitioners. Therefore, in my opinion, no further patta is required to be granted in favour of the petitioners by the State or its subordinates. In this view of the matter, no relief need be granted in favour of the petitioners in this Writ Petition.

5. The learned Counsel for the petitioners submitted that the respondents have not entered the petitioners' names in the record of rights. No relief in this regard has been claimed in this Writ Petition. As the judgment of this Court, referred to above, continues to be in force, the petitioners are entitled to seek mutation of their names in the revenue record. The petitioners are, therefore, permitted to approach the respondents with appropriate applications in accordance with the provisions of the extant Act. If such applications are filed, I have no doubt that the respondents will consider the same in accordance with law and take appropriate decision.

6. Subject to the above observations, the Writ Petition is disposed of.

7. As a sequel to disposal of the Writ Petition, interim order, dated 19-08-2002, is vacated and W.P.M.P. No. 18956 of 2002 filed by the petitioners for interim relief is disposed of as infructuous.