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(2023) 01 TEL CK 0008

In the Telangana High Court

Case No : Writ Petition Nos. 44835, 44663, 44706, 44943, 44944, 45405, 46614, 46625, 46629, 46637, 46638, 46661, 46681, 46735, 46743, 46744, 46755, 46201 And 46292 Of 2022

Madduri Bikshapati APPELLANT

Vs

State Of Telangana And 5 Others RESPONDENT

Date of Decision : 05-01-2023

Acts Referred:

Citation : (2023) 01 TEL CK 0008

Hon'ble Judges : K.Lakshman, J

Bench : Single Bench

Advocate : Rapolu Bhaskar

Final Decision : Dismissed

Judgement

1. Lis involved in these writ petitions is one and the same, these writ petitions are heard together and decided by way of this common order.

2. These Writ Petitions are filed to declare action of respondent No.5-Tahsildar, Gandipet Mandal, Ranga Reddy District and respondent No.6-the Station House Officer, Gachibowli Police Station in interfering with the peaceful possession of the petitioners over the subject land, as illegal and for consequential direction to respondent Nos.5 and 6 not to interfere with the peaceful possession and enjoyment of the petitioners over the subject property including the dispossession of the petitioners from the subject property.

3. The details of the petitioners, extent of land, survey number, Village name and Documents relied upon and filed by the petitioners are specifically mentioned below:-

Sl. No

WP

No.

Name of Petitioner

Extent Ac.Gts

.

Sy No.

Village Name

Supporting Documents

1.

44835/

2022

Madduri Bikshapati

1:00

132/1

Vatti Nagula palle

1. Cisth receipts of 1990-91 dt. 13-11-1991,

2. Cisth receipt of 1988-91 dt. 09-02-1991,

3. Cisth receipt of 1987-88 dt. 06-12-1988,

4. B –Memorandam 1984- 85/ issued under RTI, 5.B–Memorandam reflecting payment of Jama Bandhi 1995-96 issued under RTI,

6. Photograph

7.Aadhar Card of petitioner.

2.

44663/

2022

Gundapolla @ Dargupally Yadagiri

1:00

-do-

-do-

1. Cisth receipt of 1983 dated 03-07-1983

2. Cisth receipt of 1989-90, 3.Cisth receipt dt.08-07-89

4. Cisth receipt of 1991-92 dt. 18-03-1992

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5. Cisth receipt of 1989-90

6. Cisth receipt of 1981 dt. 02-07-1981,

7. Cisth receipt of 1990-91 dt.13-11-1991,

8.Cisth receipt of 1980 dt. 20-06-1980,

9. Cisth receipt of 1981 dt. 02-07-1981,

10.Cisth receipt of 1982 dt. 25-06-1982,

11.Cisth receipt of 1982 dt. 07-01-1982,

12. Cisth receipt of 1988-89 dt. 02-02-1990,

13.Cisth receipt of 1980 dt. 20-06-1980,

14. Cisth receipt of 1974-75 dt. 02-02-1976,

15. Cisth receipt of 1991-92 Dt.18-03-1992,

16. Cisth receipt of dt.08-07-1989,

17.Cisth receipt of 1983 dt. 03-07-1983,

18.Cisth receipt dated 23-06-1980

19. B- Memorandam 1984- 85 issued under RTI,

20.B- Memorandam 1995-

96 reflecting payment of Jama Bandhi,

21. Photograph

22. Aadhar Card of petitioner.

3.

44706/

2022

Madduri Babaiah

1:00

-do-

-do-

1. Cisth receipt of 1988 – 89 dt. 02-12-1989,

2.B- Memorandam 1984-85 issued under RTI

3.B- Memorandam 1995-96 reflecting payment of Jama Bandhi

4. Photograph

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5.Aadhar Card of petitioner.

4.

44943/

2022

Shamlet Narsimha

1:00

-do-

-do-

1. Cisth receipt of 1982 – 83 dt. 03-07-1983

2. Cisth receipt of 1978-79 dt. 08-08-1978,

3. B- Memorandam 1984-85 issued under RTI

4.B- Memorandam 1995-96 reflecting payment of Jama Bandhi

5. Photograph

6.Aadhar Card of petitioner.

5.

44944/

2022

Gachhubai @ Mailaram Yadagiri

1:00

-do-

-do-

1.Cisth receipt of 1982 dt. 03-07-1982

2.Cisth receipt of 1982 dt. 08-04-1984,

3.Cisth receipt of 1988 dt. 06-12-1988

4.B- Memorandam 1984-85 issued under RTI

5.B- Memorandam 1995-96,

6. Photograph

7.Aadhar Card of petitioner.

6.

45405/

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2022

Etike @ Dargupally Veeraiah

1:00

-do-

-do-

1. Cisth receipt of 1982,

2. Cisth receipt of 1985 dt. 08- 04-1984,

3.Cisth receipt of 1988 dt. 06-

12-1988

4.Cisth receipt of 1982 dated 04-02-1991

5.Cisth receipt of 1983-84 dt.02-02-1985

6.Cisth receipt of 1981 dt 02-

07-1981,

7. Cisth receipt of 1981- 82 dt.10-03-1982,

8.Cisth receipt of 1983 dt. 03-07-1983,

9. Cisth receipt of 1977-78 dt.28-06-1978 ,

10. B- Memorandam 1984- 85 issued under RTI

11. B- Memorandam 1995-

96 reflecting payment of Jama Bandhi,

12. Photograph

13. Aadhar Card of petitioner.

7.

46614/

2022

Rangani Sripal

2:00

-do-

-do-

1. B- Memorandam 1995-96 reflecting payment

of Jama Bandhi issued under RTI

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2. Photograph

3.Aadhar Card of petitioner.

8.

46625/

2022

Rangi @ Dargupally Shivamma

2:00

-do-

-do-

1. B- Memorandam 1995-96 reflecting payment of Jama Bandhi issued under RTI

2. Photograph

3.Aadhar Card of petitioner.

9.

46629/

2022

Dargupally Narsimha

2:00

-do-

-do-

1. B- Memorandam 1995-96 reflecting payment of Jama Bandhi issued under RTI

2. Photograph

3.Aadhar Card of petitioner.

10.

46637/

2022

Gundapolla @ Dargupally Veeraiah

2:00

-do-

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-do-

1. B- Memorandam 1995-96 reflecting payment of Jama Bandhiissued under RTI

2. Photograph

3. adhar Card of petitioner.

11.

46638/

2022

Etike @ Dargupally Raju

2:00

-do-

-do-

1. B- Memorandam 1984-85 issued under RTI,

2. B- Memorandam 1995-96 reflecting payment of Jama Bandhi,

3. Photograph

4.Aadhar Card of petitioner.

12.

46661/

2022

Choudhary @ Dargupally Sriramulu

2:00

-do-

-do-

1. B- Memorandam 1995-96 reflecting payment of Jama Bandhi issued under RTI

2. Photograph

3.Aadhar Card of petitioner.

13.

46681/

2022

Konda @ Dargupally Narsimha

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1:00

-do-

-do-

1. Cisth receipt of 1991-91 dt.18-03-1992

2. Cisth receipt of 1989 dt. 04-02-1991

3.Cisth receipt of 1988 dt. 06-12-1988

4. Cisth receipt of 1989 dt. 02-09-1989

5.Cisth receipt of 1983 dt. 07-07-1983

6. Cisth receipt of 1981 dt. 02-07-1981,

7. B- Memorandam 1984-85 issued under RTI

8.B- Memorandam 1995-96 reflecting payment of Jama Bandhi,

9. Photograph

10. Aadhar Card of petitioner.

14.

46735/

2022

Vadla Anjaneyulu

2:00

132/1

-do-

1. B- Memorandam 1984-85 issued under RTI ,

2.B- Memorandam 1995-96 reflecting payment of Jama Bandhi,

3. Photograph

4.Aadhar Card of petitioner.

15.

46743/

2022

Durgapally Yadgiri

2:00

132/1

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-do-

1.Cisth receipt of 1991 dt. 16-03-1992

2. Cisth receipt of 1980 dt. 22-06-1980

3. B- Memorandam 1984-85 issued under RTI

4. Photograph

5.Aadhar Card of petitioner.

16.

46744/

2022

Etike @ Dargupally Kamalamma

2:00

132/1

-do-

1. Petitioner Husband Cisth receipt of 1991 dt.09-02- 1991,

2. Petitioner Husband Cisth receipt of 1991 dt.02-02- 1991,

3. B- Memorandam 1984-85 issued under RTI4.

4.B- Memorandam1995-96,

5. Photograph

6.Aadhar Card of petitioner.

17.

46755/

2022

Madduri Pedda Pentaiah

1:00

132/1

-do-

1. Cisth receipts of 1991-92 dt.18-03-1992,

2. Cisth receipt of 1989-90 dt.02-02-1990 showing

name as UppariPentaiah,

3. Cisth receipt of 1982 dt.07-08-1982 showing name as

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UppariPentaiah,

4. Cisth receipt of 1982 dt.07-08-1982 showing name of UppariPentaiah

5. B – Memorandum OF 1984-85 issued under RTI

6.B – Memorandam reflecting payment of Jama Bandhi 1995-96 issued under RTI

7. Photograph

8.Aadhar Card of petitioner.

18.

46201/

2022

Dargupally Suresh

1:00

132/1

-do-

1.Cisth receipt of 1981 dt. 02-07-1981

2. Cisth receipt of 1991-92 dt.25-03-19923.

3. B- Memorandam 1984-85 issued under RTI

4.B- Memorandam 1995-96 reflecting payment of Jama Bandhi,

5. Photograph

6.Aadhar Card of petitioner.

19.

46292/

2022

Durgapally Pentamma

1:00

132/1

-do-

1. Cisth receipt of 1980-81 dt.02-07-1981

2.Cisth receipt of 1991-92 dt.25-03-1992

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3.Cisth receipt of 1976 dt. 15-06-1976

4.Cisth receipt of 1998 dt.06-12-1999

5. B- Memorandam 1984-85 issued under RTI

6.B- Memorandam 1995-

96,

7. Photograph

8.Aadhar Card of petitioner.

4. The contentions of the petitioners in nutshell are as follows:-They are possessors and enjoyers of the aforesaid extents of agricultural lands situated at Vattinagulapalle Village, Gandipet Mandal, Ranga Reddy District. They have been cultivating the said land since 40 years without any interruption from anybody in the Village. Originally land in Sy.No.132/1 situated at Vattinagulapalle is a Government land, fathers/maternal father-in-law/husband/paternal father-in-law of the petitioners in some cases and the petitioners themselves in some cases have occupied the said lands. They made huge expenditure and have been cultivating the said land.

4-i. They have also approached the revenue authorities by way of submitting representations to grant pattas and mutate their name in the revenue records. On receipt of the said applications, revenue officials have visited the said land, conducted pancnanama, made a proposal for approval to Assignment Committee of Chevella Constituency (for short, ‘the Committee’). The said Committee approved the names of the applicants to grant pattas in their name, mutate their names in the revenue records and also issue pattadar passbooks. They have demanded formalities and the same was denied. Therefore, revenue authorities did not initiate further process by issuing patta certificates. They have also paid tax (cisth) to the authorities concerned. 26 families, residents of the said Village, have occupied the Government lands in the year 1972 in Sy.No.132/1 of Vattinagulapalle Village. They have been cultivating the aforesaid lands and there is standing crop of vegetables, red gram etc.

4-ii. In 1995-96, revenue authorities visited the aforesaid lands, conducted panchanama, the names of the petitioners were enrolled as occupants in the said land. Due to urbanization and extension of twin cities and increase in the land value, respondent authorities are trying to dispossess the petitioners from the subject property.

4-iii. On 10.08.2022, 5th respondent along with local revenue authorities came to the site and tried to dispossess the petitioners, threatened them to vacate the aforesaid land. They have again repeated the said acts on 20.10.2022 and 23.10.2022. Thus, respondent Nos.5 and 6 are trying to dispossess the petitioners from the aforesaid land without following due procedure laid down under law. Since the last 10 years, the petitioners have been persuading the

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revenue authorities to grant pattas to them, but there is no response. Therefore, the present writ petitions.

5. In view of the same, this Court directed the learned Govt.Pleader for Assignment to get specific instructions in the matter and in compliance of the same, learned Asst.Govt.Pleader for Assignment had produced written instructions of 5th respondent i.e. Tahsildar, Gandipet Mandal along with pahani copies for the years 1971-72. In the said written instructions, it is specifically mentioned that as per the village revenue records, the total land in Sy.No.132 of Vattinagulapalle Village is Ac.198.03 guntas and the same is recorded as 'Prabuthwam' i.e. Government land. Government has allotted the land in Sy.No.132 of Vattinagulapalle Village in favour of various institutions/ organizations i.e. Fire Station and Training Center, Weaker Section and Media Reporters, Wipro, Assigned to Freedom Fighters, TSIIC, Church, Grave Yard and some part of the land is covered with roads. The balance land is in the physical possession of Government and the same is kept vacant on the ground.

6. The petitioners herein without having any right and title over the aforesaid land, are claiming the said land and filed the present writ petitions with a mala fide intention to grab the aforesaid land. The contention of the petitioners that they have been cultivating the aforesaid land since 40 years is also false. On the ground, there are no traces of agricultural activities and the land is vacant and the said land is in peaceful possession of the Government. The alleged claim of the writ petitioners that they had cultivated the subject land for certain years does not create any ownership or possessory rights to the encroachers which is unauthorized. In the revenue records such as pahanies, faisal patties etc., neither the names of the fathers of the petitioners nor their names are found either in the possessor or in pattadar column. They have not filed any documentary evidence in proof the same.

7. It is further stated that Government vide G.O.Ms.No.1122, dated 29.06.1961 had issued clear instructions that no vacant land in the Hyderabad Municipal Corporation or within the belt area of 10 miles around the city should be assigned or otherwise disposed of until Government have assessed the requirements of various departments for building accommodation in the city. Vattinagulapalle Village of Gandipet Mandal falls within ten miles around the city of Hyderabad. The said village is assignment ban Village as per G.O.Ms.No.1409, dated 19.08.1978. Therefore, the petitioners are not eligible for assignment of subject land.

8. It is further stated that said village is notified in the villages falling within 10 kms, radious of Himayathsagar and Osmansagar Lakes, wherein there are restrictions on developmental activities. The Government has issued G.O.M.S.No.69, dated 12.04.2022 for lifting of certain terms and conditions laid down under G.O.Ms.No.111, dated 08.03.1996. Due to the same, the land values in Vattinagulapalle Village have gone very high. As such the petitioners filed the present writ petitions with all false and baseless allegations. With the aforesaid

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written instructions, 5th respondent sought to dismiss the present writ petitions.

9. Sri Rapolu Bhasker, learned counsel for the petitioners, referring to the tax receipts, memorandum in respect of Vattinagulapalle Village for the year 1995-96 and photographs would submit that the fathers of the petitioners and the petitioners have been in possession of the subject land since last 40 years, they have been cultivating the same. At present standing crop is also there. They have submitted applications in 1985 to the revenue officials with a request to grant pattas in their favour. On receipt of the said representations, the Committee was constituted and the said Committee recommended to issue pattas in favour of the fathers of the petitioners and the petitioners. The same was not considered. On the other hand, without following the due procedure laid down under law, respondent Nos.5 and 6 are trying to dispossess the petitioners form the aforesaid subject property.

10. As stated in the aforesaid tabular form, some of the petitioners have filed tax receipts in respect of the aforesaid property. On perusal of the said receipts would reveal that the petitioners have paid tax 02 to 03 years, one or two petitioners, 04 to 05 years. Some of the tax receipts are jamabandi receipts.

11. It is also relevant to note that jamabandi is the record of rights containing information about land, its owners and its cultivators etc. It is a form of settlement of amount of revenue assessed upon an estate, a village, or district; a village or district rent-roll; a register of the village holding; a statement exhibiting the particulars of the public revenue, its amount, and how assessed; annual settlement of revenue with cultivators, or Ryotwari settlement; an annual statement, modified according to the circumstances under which the revenue is paid, whether by individuals or communities, and whether to a Zamindar or to the government. Thus, Jamabandi is a document prepared as part of record-of-right in every revenue estate. It contains entries regarding Ownership, cultivation and up-date of various rights in land. It is revised every five years when a Jamabandi is prepared by Patwari and attested by Revenue Officer. Therefore, the same is not a conclusive proof of either title or possession of the petitioners over the subject land on receipt of payment of land tax for that particular period/ year. Therefore, basing on the said tax receipts and in the absence of any other documents, the petitioners cannot claim that they are in continuous possession of the aforesaid property since last 40 years. Except one or two receipts, they have not filed any other document. Therefore, they cannot claim that they have been cultivating the aforesaid land since last 40 years basing on the available documents/receipts. As mentioned in the aforesaid tabular form, most of the petitioners have not filed any receipts. They cannot claim that they are in possession of the aforesaid subject property.

12. According to the petitioners, their fathers have submitted representations in 1985 to the revenue officials with a request to issue patta certificates in their favour by considering their continuous possession of 40 years over the subject property and cultivating the same. But they have not filed copies of the said

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representations before this Court. Except making an assertion in the writ affidavits, they have not filed any document to show that they have approached the respondents with a request to issue patta certificates. Therefore, the said contentions of the petitioners is untenable.

13. The petitioners have further contended that on receipt of the aforesaid representations in 1985, a Committee was constituted for the purpose of examination of the request made by the petitioners for grant of pattas. In proof the same, some of the petitioners have filed B-Memorandum of Vattinagulapalle Village for the year 1995-96.

14. Perusal of the aforesaid memorandum would reveal that there is no signature of any competent authority and the word 'memorandum' is handwritten in Telugu. Therefore, basing on the said document, petitioners cannot claim that their names were recommended for the grant of pattas and thus they are in possession of the aforesaid property. Even in the aforesaid memorandum, for the year 1995-96 of Vattinagulapalle Village, it is mentioned that an amount of Rs.812.14/-was paid towards Jamabandi. The petitioners have filed photographs to show that they are in possession of the subject property. Whereas, 5th respondent has also filed photographs to show that the aforesaid land is vacant and it is in possession of Government. Therefore, basing on the photographs, this Court cannot decide possession of the petitioners over the subject property. Thus, the petitioners herein failed to prove that they are in possession, much less continuous possession over the aforesaid respective extents in Sy.No.132/1 of Vattinagulapalle Village, Gandipet Mandal. On the other hand, 5th respondent had filed pahani copies for the years 1971-72 to 2019-2020.

15. Perusal of the said pahanies would reveal that land in Sy.No.132/1 of Vattinagulapalle Village is an extent of Ac.176.03 guntas and it is a gairan land. In the aforesaid pahani copies, neither the names of the fathers of the petitioners nor the names of the petitioners are mentioned either in pattadar or possessor column. In all the aforesaid pahanies, the land is mentioned as Gairan i.e. Government land.

16. Viewed from any angle, the claim made by the petitioners that they are in continuous possession of their aforesaid property since last 40 years, they are cultivating the same and that they are entitled for pattas etc, is untenable and the petitioners failed to establish the same by producing proper documentary evidence. Therefore, they are not entitled for any relief much less the relief sought in the present writ petitions. Therefore, these writ petitions are liable to be dismissed.

17. In the result, these writ petitions are dismissed.

Consequently, miscellaneous Petitions, if any, pending, shall also stand closed.

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