
(2002) 06 AP CK 0080

In the Andhra Pradesh High Court

Case No : Writ Petition No. 20088 of 1994

Pochiah and Others

APPELLANT

Vs

Smt. Padmavathy Subrmanyam and Another

RESPONDENT

Date of Decision : 05-06-2002

Acts Referred:

Andhra Pradesh Land grabbing (Prohibition) Rules, 1988 — Rule 15(2)

Citation : (2002) 06 AP CK 0080

Hon'ble Judges : S.R. Nayak, J; Dalava Subramanyam, J

Bench : Division Bench

Advocate : Deepak Bhattacharjee, for the Appellant; Prabhakar Sripada, G.P. for R.1 for Assignment, for the Respondent

Final Decision : Dismissed

Judgement

1. This writ petition is directed against the order passed by the Special Court constituted under the A.P. Land Grabbing (Prohibition) Act (for short "the Act") made in L.G.C.No.28 of 1994.

2. The petitioners are the respondents in the above LGC and the 1st respondent is the applicant. The applicant filed the application before the Special Court to declare the respondents as land grabbers in respect of the immovable property in plot No.37 in S.No.844/1 (Old) and S.No.844/23 of Malkajigiri village, Ranga Reddy District and for a consequential direction to the respondents to deliver vacant possession of the said plot and for award of compensation and profits. The case of the applicant to put it briefly is as follows: The Government vide G.O.Ms.No.4868 Revenue Department dated 9.12.1980 assigned an extent of Ac.4.09 guntas in S.No.844/1 situated in Malkajigiri village, Secunderabad taluk in favour of Wesley Girls High School and Junior College Employees Housing Society on payment of market value of Rs.3,00,165/- at the rate of Rs.15/- per sq.yard subject to payment of S.D. fees, demarcation charges, S.V. and tree value and land revenue and also subject to usual conditions of assignment agreed to by the assignee and in relaxation of the ban contained in

G.O.Ms.No.1409 Revenue dt.19.8.1978. The Collector, Hyderabad was requested to take necessary action accordingly. The Housing Society, having secured allotment as aforesaid, carved out 49 plots out of the assigned land. The applicant being one of the members of the society was allotted plot bearing No.37 admeasuring 228 square yards and the said plot was registered in the name of the applicant under registered sale deed document No.198 dated 23.9.1987 along with layout plan. According to the applicant, her husband was an employee in IDPL and he was transferred to Madras in the year 1984 and since her husband was away from the city, she did not visit the plot allotted to her frequently and she came to know that in the month of December, 1987 when she visited the schedule plot, she found the respondents staying in the said plot. Under those circumstances, the applicant filed the LGC No.28 of 1994 seeking the reliefs as set out supra.

3. The application was opposed by the respondents. The case of the respondent is briefly as follows: They were allotted plot No.59 admeasuring 66 square yards and in the said plot they have constructed a house bearing door No.17-119/31 bounded with North by plot No.96, East by plot No.58, South by road, West by plot No.60, and they have nothing to do with plot No.37 and that the allegations made by the applicant are false. On the basis of these pleadings, the Special Court framed the following issues:

1. Whether the applicant is the owner of open plot admeasuring 228 square yards bearing plot No.37 (old S.No.844/1) Sy.No.844/23 situated at Malkajigiri village and Municipality, Malkajgir Mandal, Ranga Reddy District.

2. Whether the respondent is the land grabber

3. To what relief.

4. The Special Court, on consideration of oral and documentary evidence, recorded the finding that the respondents are the land grabbers within the meaning of that term under the Act and in view of that finding allowed the application. The operative portion of the order dated 15.9.1994 reads as under:

"In the result, the application is allowed with costs against R.1 and R.2. Since R.3 reported dead as per orders dated 18.2.1994 the petition was already dismissed as against R.3 as not pressed. Respondents 1 and 2 are directed to hand over application schedule property within two months from today to the applicant, failing which R.D.O.Chevella shall initiate action under Rule 15(2) of A.P. Land grabbing (Prohibition) Rules 1988 to deliver vacant possession of the same to the applicant and report compliance."

5. Hence this writ petition by the respondents in the L.G.C. We have heard learned counsel for the petitioners and the first respondent.

6. The short question that arises for our consideration and decision in this writ petition is whether the factual finding recorded by the Special Court that the petitioners herein are the land grabbers and they are in possession of plot No.37

admeasuring 228 square yards unauthorisedly is based on any evidence or that finding is perverse for want of evidence.

7. At the threshold, it needs to be noticed that the specific case of the petitioners who are the respondents in the L.G.C. is that they have nothing to do with plot No.37. On the other hand, they specifically pleaded that plot No.59 admeasuring 66 square yards in S.No.844/1 situated at Ramanjaneya Nagar Colony, Malkajigiri village, Ranga Reddy District was allotted to them and the house constructed in the said plot is having door no.17-119/31 admeasuring 66 sq. yards. When this is the specific case of the petitioner-respondent, the Special Court found as a matter of fact on the basis of the verification report submitted by the Mandal Revenue Officer in the course of the enquiry that the house constructed by the petitioners-respondents bearing door No.17-119/31 is in plot No.37 and not in plot No.59. This factual finding clinches the issue. It is not the case of the petitioners that they are the owners of plot No. 37 or they have something to do with that land. In other words, they did not contest the entitlement of the applicant to plot No.37 being an allottee of that plot by the society. If the house constructed by the petitioners bearing door no.17-119/31 is found in plot No.37, the irresistible conclusion would be that they are the land grabbers as regards plot No.37. The finding recorded by the Special Court does not warrant any interference by us. No ground is made out for interfering with the order of the Special Court.

8. The writ petition is devoid of merit and it is accordingly dismissed. No order as to costs.