

(2002) 02 AP CK 0195
In the Andhra Pradesh High Court
Case No : Writ Appeal No. 972 of 2000

Revenue Divisional Officer and Another	APPELLANT
Vs	
Kasula Sathaiah and Another	RESPONDENT

Date of Decision : 25-02-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 3 ALT 389(1)

Hon'ble Judges : S.R.K. Prasad, J; S.R. Nayak, J

Bench : Division Bench

Advocate : G.P. for Assignment, for the Appellant; M. Damodar Reddy, for the Respondent

Final Decision : Allowed

Judgement

S.R. Nayak, J.—This writ appeal by the Revenue Divisional Officer and the Mandal Revenue Officer is directed against the order of the learned single Judge dated 14-7-2000 made in Writ Petition No. 5848/99.

2. The respondents herein were the petitioners in the said writ petition. In the writ petition, they sought implementation of the alleged patta said to have been given to them assigning 4.00 acres of land (2 acres each to the petitioners) of Kapra village, Keesara Mandal, R.R. District comprised in Survey No. 199/1 vide Lr. No. B/1861/92, dated 2-6-1993 of the Mandal Revenue Officer and Lr. No. B1/4204/93, dated 29-10-1993 of the Revenue Divisional Officer, East Ranga Reddy District, Hyderabad.

3. Opposing the writ petition, the appellant authorities have filed counter-affidavit. In the counter filed by them, they have claimed that the writ petitioners' names did not appear in the revenue records and that the claim of the writ petitioners that proceedings were issued assigning the subject land in their favour is not correct; under the Lavoni Rules, the writ petitioners could not have been assigned the subject land because they were not landless poor. It was

also contended that the claim of the petitioners is ex facie untenable because during the relevant time, there was a total prohibition of grant of patta in respect of the lands in Kapra village. They also contended that the documents produced by the writ petitioners in support of their claim are concocted documents.

4. The learned single Judge placing reliance on the assignment patta in Form "G" produced by the writ petitioners and opining that at the relevant point of time, there was no ban to assign the land, disposed of the writ petition holding that the writ petitioners were granted patta in 1961 itself and therefore they are entitled to have the possession of the same until the assignment is cancelled by due process of law. Hence, this writ appeal by the State authorities.

5. The learned Government Pleader for Assignments would contend that having regard to the specific stand taken by the appellant authorities that the documents produced by the petitioners are concocted documents, and those documents came into existence and produced under suspicious circumstances, the learned Judge ought to have dismissed the writ petition, because, the issue that arises for decision is a factual one and such factual issue cannot be resolved in a summary proceeding under Article 226 of the Constitution of India and therefore, the learned single Judge ought to have left it open for the petitioners to work out their legal remedies in an appropriate jurisdictional Civil Court or before the revenue authorities and such factual controversies could not have been decided on the basis of affidavits and counter-affidavits only.

6. We find some force in the contention of the learned Government Pleader. It is trite that but for the so called assignment patta in Form No. G alleged to have been issued by the revenue authorities, the writ petitioners would not be entitled to seek the kind of relief they have sought in the writ petition. Since the very validity of the said document is contested by the State authorities terming it as a concocted document, it becomes necessary for the Court to decide the factual controversy as to whether the said document is the real one issued by the competent revenue authority or concocted by the writ petitioners for the clandestine purpose. The said controversy being purely factual, it is not proper for the Court to take up investigation of such disputed fact and record finding.

7. It is quite often held and reiterated by the Constitutional Courts that while exercising the power under Article 226 by way of summary proceedings, the Court should not take up resolution of factual controversies and leave the parties to work out other legal remedies available to them. In order to resolve the question noticed above, it becomes necessary for the Court or the revenue authorities to permit the parties to lead evidence in support of their respective case.

8. In the result, we allow this writ appeal and set aside the order of the learned single Judge. However, we direct the Mandal Revenue Officer, Keesara Mandal, Ranga Reddy District to consider the representation of the writ petitioners for implementing the order of assignment dated 31-12-1961 and pass appropriate

order after giving fair opportunity to the writ petitioners to produce evidence and of being heard. This direction shall be carried out by the Mandal Revenue Officer within a period of four months from the date of receipt of a copy of this order. All contentions relating to the merits of the matter are left open to be pressed into service before the Mandal Revenue Officer. No costs.