

IN THE HIGH COURT OF ANDHRA PRADESH AMARAVATI
THE HON'BLE SRI JUSTICE SUBBA REDDY SATTI
WRIT PETITION Nos.3351, 8024, 8058 of 2019 and 16468 of
2021

WRIT PETITION No. 3351 of 2019

Chinna Ramakka , W/o Venkata Ramana Raju aged
about 70 years, R/o. Papepalle Village, V.Kota
Mandal, Chittoor District.

... Petitioner

Versus

The State of Andhra Pradesh, represented by its
Principal Secretary, Revenue Department
Secretariat, Velagapudi, Amaravathi Mandal,
Guntur District and 22 others

(Respondent Nos.6 to 23 are impleaded as per
order dated 13.02.2024 passed in I.A.No.1 of 2021.)

... Respondents

Counsel for the petitioner : Sri V B Subrahmanyam

Counsel for respondents : GP of Revenue and
Sri V R Reddy Kovvuri

WRIT PETITION No. 8024 of 2019

Chinna Ramakka, W/o Venkata Ramana Raju aged
about 70 years, R/o. Papepalle Village, V.Kota
Mandal, Chittoor District.

... Petitioner

Versus

The State of Andhra Pradesh, represented by its
Principal Secretary, Revenue Department

Secretariat, Velagapudi, Amaravathi Mandal,
Guntur District and 60 others.

(Respondent Nos.44 to 61 are impleaded as
per order dated 13.02.2024 passed in I.A.No.1 of
2021.)

... Respondents

Counsel for the petitioner : Sri V B Subrahmanyam
Counsel for respondents : GP of Revenue and
Sri V R Reddy Kovvuri

WRIT PETITION No. 8058 of 2019

Chinna Ramakka, W/o Venkata Ramana Raju aged
about 70 years, R/o. Papepalle Village, V.Kota
Mandal, Chittoor District.

... Petitioner

Versus

The State of Andhra Pradesh, represented by its
Principal Secretary, Revenue Department
Secretariat, Velagapudi, Amaravathi Mandal,
Guntur District and 43 others.

... Respondents

Counsel for the petitioner : Sri V B Subrahmanyam
Counsel for respondents : GP of Revenue and
Sri G. Venkat Reddy, standing
counsel

WRIT PETITION No. 16468 of 2021

Chinna Ramakka , W/o Venkata Ramana Raju aged
about 72 years, R/o. Papepalle Village, V.Kota
Mandal, Chittoor District.

... Petitioner

Versus

The State of Andhra Pradesh, represented by its
Principal Secretary, Revenue Department
Secretariat, Velagapudi, Amaravathi Mandal,
Guntur District and 4 others.

... Respondents

Counsel for the petitioner : Sri V B Subrahmanyam
Counsel for respondents : GP of Revenue and
Sri G. Venkat Reddy, standing
counsel

COMMON ORDER

W.P.No. 3351 of 2019 is filed seeking the following
relief:

“... to issue Writ of Mandamus, declaring the action
of the Respondents in dispossessing the Petitioner from
the lands in an extent 1.00 cents in Sy.No.26/6, in an
extent 0.40 cents in Sy.No.26/8 and in an extent 0.82
cents in Sy.No.26/9 situated at Papepalli Village of V.
Kota Mandal, Chittoor District without following due
process of law as illegal, arbitrary and unconstitutional
and consequentially restrain the Respondents herein
from dispossessing the petitioner from the lands in an
extent 1.00 cents in Sy.No.26/6, in an extent 0.40 cents
in Sy.No.26/8 and in an extent 0.82 cents in
Sy.No.26/9 situated at Papepalli Village, V. Kota
Mandal, Chittoor District except in accordance with law
and to pass such other or further orders ...”

2. **W.P.No. 8024 of 2019** is filed seeking the following relief:

“... to issue WRIT OF MANDAMUS, declaring the action of the Respondent 1 to 5 herein in not taking action against Respondent Nos.6 to 43 in pursuance of the status quo order dated 01.04.2019 passed in W.P.No.3351 of 2019 by this Hon’ble Court as illegal, arbitrary and unconstitutional and consequentially restrain the Respondent Nos.6 to 43 herein from proceeding with the illegal constructions on the lands in an extent Ac.1.00 cents in Sy.NO.26/6, in an extent Ac.0.40 cents Sy.No.26/8 and in an extent Ac.0.82 cents in Sy.No.26/9 of the Petitioner situated at Papepalli village, V.Kota Mandal, Chittoor District and to pass such other or further orders ...”

3. **W.P.No. 8058 of 2019** is filed seeking the following relief:

“... to issue Writ of Mandamus, declaring the action of the Respondent No.6 herein in not taking action on the Petitioner’s Representations dated 10.03.2019 and 28.03.2019 in accordance with the A.P. Panchayat Raj Act, 1994 against Respondents Nos.7 to 43 as illegal, arbitrary and unconstitutional and consequentially restrain the Respondents Nos.7 to 44 herein from proceeding with the illegal constructions on the lands in an extent Ac.1.00 cents in Sy.No.26/6, in an extent Ac.0.40 cents in Sy.No.26/8 and in an extent Ac.0.82 cents in Sy.No.26/9 of the Petitioner situated at

Papepalli Village, V. Kota Mandal, Chittoor District and
to pass such other or further orders ...”

4. **W.P.No. 16468 of 2021** is filed seeking the following
relief:

“... to issue a WRIT OF MANDAMUS, declaring the action of the Respondents in issuing the house site pattas to the third parties basing on the sketch in the lands in an extent of Ac.0.82 cents in Sy.No.26/6, in an extent of Ac.0.40 cents in Sy.No.26/8 and in an extent of Ac.1.00 cents in Sy.No.26/9 situated at Papepalli Village of V. Kota Mandal belong to the Petitioner contrary to the order dated 01.04.2019 in I.A.No.1 of 2019 in W.P.No.3351 of 2019 without considering the representations dated 08.01.2020, 10.06.2021, 02.07.2021 and 08.07.2021 is illegal, arbitrary and violative of principles of Natural Justice and consequently restrain the respondents from interfering with the peaceful possession and enjoyment of the lands in an extent of Ac.0.82 cents in Sy.No.26/6, in an extent of Ac.0.40 cents in Sy.No.26/8 and in an extent of Ac.1.00 cents in Sy.No.26/9 situated at Papepalli Village of V. Kota Mandal belong to the petitioner by setting aside sketch for Field No.26/3, 5, 6, 7, 8 & 27/1 of Papepalli, V. Kota Mandal and the House site pattas granted in favour of third parties in lands in an extent of Ac.0.82 cents in Sy.No.26/6, in an extent of Ac.0.40 cents in Sy.No.26/8 and in an extent of Ac.1.00 cents in Sy.No.26/9 situated at Papepalli Village of V. Kota Mandal which belongs to the petitioner except in accordance with law and pass such other or further orders ...”

5. Since the subject matter and property in these writ petitions are one and the same, these writ petitions are disposed of by this common order.

6. The brief facts of the case are that petitioner's mother-in-law purchased Ac.1.00 cents in Sy.No.26/6, Ac.0.40 cents in Sy. No. 26/8, and Ac.0.82 cents in Sy.No.26/9, Papepalli Village of Palamaneru Taluk, Chittoor District, which are sotriyam inam lands of No.69 of Sotriyam Papepalli Village of Palamaneru Taluk, Palamaneru Sub-division, under registered sale deeds dated 19.05.1963, 20.10.1962 and 20.10.1962 respectively. Since no survey was conducted at the time of purchase of the property, the lands were given T.D.No.1352 and petitioner's mother-in-law continued in possession and enjoyment of the subject property. The subject property was allotted to petitioner's family in joint family settlement. After the death of petitioner's husband, petitioner made several representations before the authorities for mutation of her name in the revenue records. However, without considering the same, the authorities are issuing house site pattas by declaring the land as Government lands and constructions are being made in the subject land. Therefore, petitioner filed W.P.No.3351 of 2019 and this Court has granted order of *status quo*. Despite receiving

copy of order of *status quo*, the official respondents have not taken any against the unofficial respondents. Hence, the writ petitions.

7. Counter affidavits are filed by Tahsildar, V. Kota Mandal, Chittoor District, in W.P.Nos.3351 of 2019 and 16468 of 2021. It was contended that the subject land is classified as Assessed Waste Dry (AWD) as per village revenue accounts. Village was resurveyed and settlement was finalized during 1916. The subject lands are government lands classified as 'Anaadheenam' and hence, house site pattas were issued. The petitioner has no other documentary proof except registered sale deed. No house site pattas were granted pursuant to the interim order dated 01.04.2019. File with regard to the T.D. number mentioned in the registered document is not available in their office or at Taluk office, Palamaner. Eventually, prayed to dismiss the writ petitions.

8. Petitioner filed reply affidavit in W.P.No.16468 of 2021 denying the averments of the counter affidavits.

9. I.A. Nos.1 of 2021 were filed by third parties in W.P.Nos.3351 and 8024 of 2019, to come on record as

respondent Nos.6 to 23 and 44 to 61 respectively in the said writ petitions.

10. Heard Sri V B Subrahmanyam learned counsel for the petitioner, Sri V R Reddy Kovvuri, learned counsel representing the implead respondents, learned GP for Revenue and Sri G. Venkat Reddy, learned standing counsel for V. Kota Grampanchayat.

11. Learned counsel for the petitioner submits that in the oral partition effected in the year, 1970, the subject property was allotted to the petitioner's family. He submits that on coming to know about issuance of house site pattas in the subject land, petitioner made application under 'the Right To Information Act' and as per the information submitted by respondent No.3, no V.H.S.pattas were granted to anyone. However, unofficial respondents are trying to construct houses and shopping complexes. He submits that notwithstanding the order of status quo, constructions are being carried out.

12. On the other hand, learned counsel for the respondents submitted that nothing is recorded in the revenue records to show that the subject land is private land. It is submitted that

as per the Government records, the land is described as Anadeenam and hence, pattas were issued.

13. The point for consideration is whether the petitioner is entitled to the relief sought for?

14. As can be seen from the pleadings and material on record, petitioner is asserting title and possession over Ac.1.00 cents in Sy.No.26/6, Ac.0.40 cents in Sy. No. 26/8, and Ac.0.82 cents in Sy.No.26/9, Papepalli Village of Palamaneru Taluk, Chittoor District based the sale said to have been purchased by her mother-in-law. On the other hand, the respondents are claiming that the property is government land, anadeenam, and hence pattas were issued.

15. According to the petitioner, since no survey was conducted at the time of purchase of the property, the lands were given T.D.No.1352. No document was filed by the petitioner to correlate the T.D. number with the survey numbers as claimed in the affidavit. Petitioner also did not file any revenue record reflecting the name of petitioner or predecessor in interest. On the other hand, revenue records filed by the respondents, show that the lands are anadeenam land. The questions whether the land is anadeenam and as to whether the subject T.D.No.1352 is

related to the subject survey numbers are purely disputed questions of fact.

16. It is settled position of law that disputes regarding possession and title of immovable property cannot be effectively adjudicated in summary proceedings under Article 226 of Indian Constitution, on the basis of affidavit and counter affidavit without letting in evidence.

17. The Hon'ble Supreme Court in **Radha Krishnan Industries v. State of Himachal Pradesh**¹, summarized the following principles on the maintainability of a writ petition before the High Court:

“27. The principles of law which emerge are that:

27.1. The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well.

27.2. The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person.

¹ (2021) 6 SCC 771

27.3. Exceptions to the rule of alternate remedy arise where : (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged.

27.4. An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law.

27.5. When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion.

27.6. In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ

petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.”

18. In **Sohan Lal vs. Union of India**², Apex Court observed as under:

“We do not propose to enquire into the merits of the rival claims of title to the property in dispute set up by the appellant and Jagan Nath. If we were to do so, we would be entering into a field of investigation which is more appropriate for a Civil Court in a properly constituted suit to do rather than for a Court exercising by issuing writs. There are questions of fact and law which are in dispute requiring determination before the respective claims of the parties to this appeal can be decided. Before the property in dispute can be restored to Jagan Nath it will be necessary to declare that he had title in that property and was entitled to recover possession of it. This would in effect amount to passing a decree in his favour. In the circumstances to be mentioned hereafter, it is a matter for serious consideration whether in proceedings under Article 226 of the Constitution such declaration ought to be made and restoration of the property to Jagan Nath be ordered.....”

19. In **Smt. Parvatibai Subhanrao vs. Anwarali Hasanali Makani**³, Apex Court held that the Court ordinarily will not

² 1957 SCR 738

determine the title over the immovable property under Article 226 of Constitution of India. In cases relating to immovable properties which are governed by the ordinary civil law, the High Court should not exercise its special jurisdiction under the Constitution unless the circumstances are exceptional.

20. In **Mohan Pandey And Another vs. Smt. Usha Rani Rajgaria And Others**⁴, Apex Court observed as under:

“A regular suit is the appropriate remedy for settlement of disputes relating to property rights and the remedy under it, is not available except where violation of some statutory duty on the part of a statutory authority is alleged. High Court cannot allow its constitutional jurisdiction to be used for deciding disputes, for which remedies, under the general law, civil or criminal, are available. It is not intended to replace the ordinary remedies by way of a suit or application available to a litigant. The jurisdiction under Article 226 of the Constitution being special and extraordinary, it should not be exercised casually or lightly.”

21. The Constitutional Bench of Supreme Court in, **Steel Authority of India Ltd. v. National Union Water Front Workers** ⁵ held as under:

³ 1992 (1) SCC 414

⁴ 1992 (4) SCC 61

⁵ (2001) 7 SCC 1

“123. We have used the expression industrial adjudicator by design as determination of the questions aforementioned requires inquiry into disputed questions of facts which cannot conveniently be made by High Courts in exercise of jurisdiction under Article 226 of the Constitution. Therefore, in such cases the appropriate authority to go into those issues will be industrial tribunal/court whose determination will be amenable to judicial review.”

22. In the case at hand, as stated supra, the questions as to whether the land is anadeenam or private land being a serious disputed question of fact, normally will not be adjudicated in the writ petition. The petitioner made an averment in the affidavit about the survey numbers. As per the revenue record, the survey numbers, it was mentioned as Anadeenam. The xerox copies of the document filed, along with writ petition, do not indicate survey numbers, and it reflect only T.D. number. In fact, there is no plea in the writ affidavit that the survey number and T.D. number is one and same. It was simply mentioned in the affidavit about survey numbers without any basis. Thus, the averment made in the affidavit, cannot be treated as gospel truth. Tax receipts filed along with the writ petition do not, per se, establish petitioner's right, title or possession over the property claimed. The petitioner ought to have invoked common

law remedy. It is also an undisputed fact that the authorities issued house site pattas to different individuals and seems constructions were going on.

23. In view of the discussion supra, this court doesn't find any merit in the writ petitions. These writ petitions are liable to be dismissed. Accordingly, writ petitions are dismissed, however no costs.

As a sequel, pending miscellaneous petitions, if any, shall stand dismissed.

JUSTICE SUBBA REDDY SATTI

Date : 13.02.2024
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THE HON'BLE SRI JUSTICE SUBBA REDDY SATTI

WRIT PETITION Nos.3351, 8024, 8058 of 2019
and 16468 of 2021

Date : 13.02.2024

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