

HON'BLE SRI JUSTICE P.NAVEEN RAO
WRIT PETITION Nos.26892 and 26903 of 2014

Date: 03.02.2015

W.P.No.26892 of 2014

Between:

Kathika Raghava Rao s/o. Purna Chandra Rao,
Aged about 46 years, R/o.Vaddeswaram Village,
Tadepalli Mandal, Guntur District.

.. Petitioner

AND

State of Andhra Pradesh, rep.by its Principal
Secretary, Stamps and Registration, Secretariat,
Hyderabad.

.. Respondents

W.P.No.26903 of 2014

Between:

Koneru Srilakshmi w/o. Kanemneni Sashibushan,
Aged 41 years, R/o.D.No.57-7-6/2, New P&T Colony
Road, Patamata, Vijayawada, Krishna District

.. Petitioner

AND

State of Andhra Pradesh, rep.by its Principal
Secretary, Stamps and Registration, Secretariat,
Hyderabad and others.

.. Respondents

The Court made the following:

HON'BLE SRI JUSTICE P.NAVEEN RAO
WRIT PETITION NOs.26892 and 26903 of 2014

COMMON ORDER:

In these two writ petitions common issue arise for consideration.
Hence, both writ petitions are disposed of by common order.

2. The case of the petitioners is that entire Agraharam of Kolanukonda in Guntur District is an Inam grant made by Sri Raja Vasireddy Venkatadri Naidu Garu of Amaravathi in Falsi 1196, who was then Ruler to Agraharamdars. The entire village was surveyed into blocks out of which Sy.No.19 consisted of Ac.34.59 cents. This entire land was granted to Agraharamdars. Out of this, Ac.0.01 cent was acquired by the National Highways Authority (NH5) and the same was shown as Sy.No.19/2 and the remaining extent of Ac.34.58 cents was shown in Sy.No.19/1. In pursuant to A.P.(A.A.) Inams (Abolition and Conversion in to Ryotwari) Act, 1956 (for short, 'the Act, 1956'), inamdars were granted ryotwari pattas in respect of entire extent of land in Sy.No.19/1 vide proceedings of Special Deputy Tahsildar (Inams), Guntur on 28.04.1979. Petitioner in W.P.No.26892 of 2014 purchased the said property from the ryotwari patta holder under registered sale deed dated 05.09.1991 to an extent of Ac.2.91½ cents in Sy.No.19/1 of Kolanukonda Village, Tadepalli Mandal, Guntur District. Petitioner in W.P.No.26903 of 2014 purchased the land to an extent of Ac.0.97 cents in Sy.No.19/1 of same village by registered sale deed dated 22.03.2007. Ever since petitioners claim to be in possession and enjoyment of the said properties.

3. While so the District Collector, Guntur, vide proceedings Rc.No.5702/1999-F1 dated 05.06.2011, directed all the Sub-Registrars in Guntur District not to entertain sale transactions on the lands listed out in the annexure to the said proceedings. On further probe, petitioner found that in the adangal/pahani in respect of Kolanukonda Village against column of pattadar and possessor, it was shown as Unsettled Inam Agraharam and in column no.15 it was shown as Government land. These writ petitions are instituted aggrieved by the inclusion of the land in Sy.No.19/1 in the said manner and prohibiting registration of deeds of conveyance.

4. Having noticed that counter-affidavit earlier filed was silent on many aspects raised in the writ petition, liberty was granted for filing additional counter-affidavit by order dated 27.11.2014. Accordingly additional counter-affidavit is filed.

5. The case of the respondents is that Section 2A was inserted in Act, 1956 by Amendment Act 20/75. According to Section 2A of the Act, all communal lands, porambokes, waste lands, forest lands, mines and quarries, tanks and tank bed lands, irrigation works, streams, rivers, fisheries and ferries stand transferred to Government and vested with the Government free of all encumbrances and shall be considered to be Government land. However, it was noticed that in spite of said provision incorporated into the Act, ryotwari pattas were granted by the revenue authorities on lands which were classified as belonging to Government in Section 2A of Act, 1956.

6. The District Collector, Guntur, reviewed the status of Government lands and directed the revenue authorities in the District to identify all such properties which are covered by Section 2A and take appropriate further course of action. As a consequence, detailed exercise was undertaken in Tadepalli Mandal in the year 2011 and communal lands were identified. The competent authority noticed that ryotwari pattas

were granted on hills/tanks in Kolanukonda village. The land in Sy.No.19/1 of Kolanukonda village is called as Munugodu Thippa (Konda poramboke). It was also noticed that in over anxiety, pattas were granted to General Power of Attorney holders, whereas mandate of Act is to grant ryotwari patta to the person or institution holding an inam land in Ryotwari village or Zamindari village on the date of commencement of the Act. As per Section 8 of the Act, 1956, the holder of the inam was not conveyed the absolute title as the imams are liable to be resumed when they failed to fulfil the obligations annexed to the grants or to alienate them.

7. It is also noticed that no records were available in the Collector's Office or in the Subordinate Offices in the district with regard to the issuance of ryotwari pattas. It is further noticed that the person responsible for the dispute was the then Village Revenue Officer, by name, Sri Kathika Purnachandra Rao, who is none other than the father of the petitioner in W.P.No.26892 of 2014. Consequential directions were issued by the District Collector not to undertake alienation of the properties which are classified as communal lands and which are governed by Section 2A of the Act pending further enquiry. In compliance of the said directions, the Sub-Registrar, Mangalgiri is not accepting registrations on the lands in Sy.No.19/1.

8. Heard Sri T.S.Anand, learned counsel for the petitioners and learned Special Government Pleader attached to Additional Advocate General (Andhra Pradesh).

9. Learned counsel for the petitioners contended that ryotwari patta was validly granted to the vendor of the petitioners and on due verification of the records, petitioner in W.P.No.26892 of 2014 purchased the land as early as in the year 1991. Ever since the said petitioner is in possession and enjoyment of the land. The ryotwari patta granted to the vendor of the petitioners is valid and is in force. As

long as ryotwari patta is in force, purchase made by the petitioners are valid and petitioners are entitled to deal with the properties as per their wish. Until and unless the patta granted is cancelled, no restraint can be imposed on the right of the petitioners to enjoy the property and to deal with the properties. He further contended that it is illegal and arbitrary to impose restrictions on alienation of the property at this distance of the time. The ryotwari patta was granted to the vendor of the petitioners in the year 1979 and petitioners purchased the same in the year 1991 and 2007 respectively. He further contended that in the year 1991, Commissioner directed undertaking review of pattas granted in violation of Section 2A of the Act, 1956. Aggrieved thereby, Writ Petition No.12140 of 1991 was filed by the person who was holding inam land. The said writ petition was allowed by judgment dated 25.02.2003 on the ground that such decision could not have been taken without putting the petitioner on notice and affording an opportunity of hearing.

10. He further submitted that though respondents in W.P.No.12140 of 1991 filed Writ Appeal No.1280 of 2003, no adverse finding is recorded by the Division Bench and as a consequence to the above decision in the writ petition, no further steps were taken and, therefore, the restraint imposed on the alienation of the property is illegal. Learned counsel further contended that even according to the orders of the District Collector, dated 05.06.2011, if gazette notification is issued after conducting survey in accordance with the A.P.Survey and Boundaries Act, 1923, the earlier restraint imposed on the alienation of the properties stand removed. Concerning this village, gazette notification under the Survey and Boundaries Act, 1923 was already issued on 10.01.2000 and, therefore, there is no restraint in carrying alienation of the registrations and the action of the revenue authorities reflecting in the adangal as Unsettled Inam is illegal.

11. Learned Special Government Pleader contended that having

come to the notice of the Commissioner of Survey, Settlements and Land Records that contrary to the provisions contained in Section 2A of the Act, 1956, on certain prohibited lands, ryotwari pattas were granted. The Collector, Guntur was directed to examine the

Kolanukonda Agraharam land acquisition/Inam abolition cases denove and make a list of all lands, which would vest in the Government under Section 2A of the Act, 1956. He should submit such list to the Commissioner along with records so that he can take action in respect of those pattas under Section 14-A of the Act, 1956.

The Division Bench of this Court observed that it is permissible to undertake such revision as and when it has come to the notice of the competent authority that pattas were illegally granted. He, therefore, submitted that until an enquiry is completed and appropriate steps are taken, no transactions can be permitted and that action of the District authorities in reflecting the status of the land in Sy.No.19/1 of Kolanukonda village as Unsettled Inam is valid.

12. Learned Special Government Pleader further contended that admittedly, the land in Sy.No.19/1 is classified as Munugodu Tippa and is covered by the provision contained in Section 2A of the Act, 1956. No ryotwari patta could have been granted after introduction of the said provision. As admitted by the petitioners, the patta was granted in the year 1979. No adverse action is taken so far against the petitioners. The enquiry is in progress. Until the enquiry is completed and appropriate decision is taken, petitioners cannot have grievance. Para-V of the letter dated 05.06.2011 of the District Collector is very categorical not to entertain sale transactions in the Villages where the procedure is pending under various stages in implementing the Act, 1956.

13. The provision in Section 2A of the Act, 1956 mandates that all communal lands including poramboke stands transferred to the Government and vest in the Government free of all encumbrances and

treated as Government lands. Ryotwari Pattas cannot be granted on such lands. As per the revenue records, land in Sy.No.19/1 of Kolanukonda village is classified as Munugodu Tippa (Konda poramboku). Thus, the said land is covered by provision contained in Section 2A of the Act. The ryotwari patta was granted to the vendor of the petitioners on 09.08.1979 i.e., after the introduction of Section 2A of the Act.

14. One of the Inamdars of the village aggrieved by grant of ryotwari patta in the same village to another person, filed revision before the Commissioner, Survey, Settlements and Land Records under Section 14-A of Act, 1956. On thorough consideration of the matter, the Commissioner having noticed that illegally ryotwari pattas were granted in all those lands, which are covered by the provision contained in Section 2A of the Act, 1956, directed the District Collector, Guntur to examine Kolanukonda Agraharam land acquisition/inam abolition cases *denovo* and make a list of all lands which ought to have been vested in Government under Section 2A of the Act, 1956. He was also directed to prepare a separate lists of ryotwari pattas given to the lands covered by Section 2A of the Act, 1956 and land acquisition compensation paid to lands covered by Section 2A of the Act, 1956. He was also directed to furnish such list to the Commissioner along with records, so that action can be taken in respect of those pattas under section 14-A of the Act, 1956.

15. The decision of Commissioner was assailed before this Court in W.P.No.12140 of 1991. By judgment dated 25.02.2003, learned single Judge of this Court sets aside the decision of the Commissioner as violation of principles of natural justice. In W.A.No.1280 of 2003, this Court held that whenever some illegalities are noticed, it is permissible for the competent authority to undertake review of the earlier decision. The Division Bench of this Court held that the decision of the Commissioner is only a preliminary enquiry, that no adverse orders

were passed against the petitioner and the writ petition is not maintainable.

16. It is, thus, seen that this Court upheld the decision of the Commissioner taken as early as in the year 1991 to undertake review of the ryotwari pattas granted under the Act, 1956, in utter disregard of the provision contained in Section 2A of the Act, 1956. As averred in the counter affidavit deposed by Kantilal Dande, District Collector, Guntur, the Revenue Divisional Officer was appointed as Enquiry Officer and that enquiry is in progress. It is thus clear that so far no decision is taken to cancel the patta granted in favour of the vendor of the petitioners. It is also appropriate to notice that the decision of the Commissioner was dated 11.03.1991 and admittedly the 1st petitioner purchased the said property on 05.09.1991 and the second petitioner in the year 2007, i.e., after the said decision. Therefore, the transactions undertaken after 11.03.1991 shall have to abide the result of the enquiry as directed by the Commissioner in his order dated 11.03.1991. It is also appropriate to notice that the petitioners do not deny the assertion of the respondents that the land in Sy.No.19/1 is classified as Munugodu Tippa. Thus, whether patta was validly granted and whether such land is hit by the provision contained in Section 2A of the Act, 1956 and whether delay enure to the benefit of vendor of the petitioners are matters that can be gone into only when a final decision is taken on the issue. The interest of patta holders and the persons who have purchased the lands from the said patta holders are sufficiently protected by the order of the Division Bench.

17. Completion of the procedure as mandated by provisions of A.P.Survey and Boundaries Act, 1923, is entirely different from the examination of the status of the lands which are covered by the provisions of Act, 1956. In the instant case, though a gazette notification was issued as early as in the year 2000, concerning this

village, that notification is applicable to all other lands where ryotwari pattas were granted which are not covered by provision in Section 2A. The enquiry as directed by the Commissioner in the year 1991 and the matter which is under consideration by the District Administration is only with reference to granting of pattas on lands which are covered by the provision contained in Section 2A of the Act, 1956. Thus, merely because the gazette notification is issued under the A.P. Survey and Boundaries Act, does not entitle the petitioner to claim that the bar on registrations stands removed in this village. On a closer scrutiny of the orders of District Collector, dated 05.06.2011, keeping in mind the orders of the Commissioner of Survey, Settlements and Land Records dated 11.03.1991, it is clear that the decision of the Collector permitting the registrations would apply only in case where ryotwari pattas granted are not on the lands which attract provision contained in Section 2A of the Act, 1956.

18. Earlier the District Collector imposed complete ban on undertaking registrations on all lands where ryotwari pattas were granted. However, on scrutiny of representations made to him bringing to his notice that all lands are not hit by the provision in Section 2A of the Act, 1956 and that ryotwari pattas were validly granted and imposition of such prohibition adversely affecting them, the matter was reviewed. The District Collector having considered the report of the Assistant Director of Survey and Land Records, on procedure for treating a ryotwari village as regular village, permitted to take out registrations, mortgages and rectifications in the villages, where the process has been completed under Section 13 of the A.P. Survey and Boundaries Act, 1923 and the list of villages published in the District Gazette. The order of the District Collector would show that no registrations can be entertained where the lands vests in the Government under Section 2A of the Act, 1956 as shown in the annexure appended to his letter. This letter of the District Collector is

not under challenge in this writ petition. Therefore, the validity or correctness of the said decision cannot be gone into. The records disclose that the enquiry as required by the Commissioner for Survey, Settlements and Land Records is yet to be completed and as of now, the land in Sy.No.19/1 is described as Munugodu Tippa, which is covered by Section 2A of the Act, 1956 and, therefore, prohibition continues to operate against carrying out the transactions on alienation of the properties.

19. As rightly contended by the learned Special Government Pleader, the petitioners are not entitled to the prayers sought in view of the decision of the Division Bench of this Court in W.A.No.1280 of 2003.

20. There are no merits in the writ petitions and accordingly writ petitions are dismissed. It is needless to observe that having regard to the fact that the issue is pending for a very long time, the District Collector shall ensure finalisation of enquiry and shall submit a report to the Commissioner of Survey, Settlements and Land Records within three months from the date of receipt of copy of this order. There shall be no order as to costs.

Miscellaneous petitions if any petition in these writ petitions shall stand closed.

**JUSTICE
P.NAVEEN RAO**

Date : 03.02.2015
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HON'BLE SRI JUSTICE P.NAVEEN RAO

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