

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.1330 of 2014

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Between:

Chakali Kistaiah

PETITIONER

AND

1. The Government of Andhra Pradesh, rep. by its Principal Secretary,
Revenue Department, A.P. Secretariat, Saifabad, Hyderabad-4 and
others.

RESPONDENTS

ORDER:

The writ petition came to be filed by the petitioner questioning the endorsement dated 17.05.2013 rejecting application filed by the petitioner for grant of No Objection Certificate to sell the land in S.No.84 to an extent of Ac.4.30 gts., situated at Sultanpally Village of Shamshabad Mandal, Ranga Reddy District.

The petitioner is an ex-serviceman. He worked as Nayak in the Army with effect from 31.06.1954 to 01.12.1976. He was assigned an extent of Ac.4.30 gts of

land in Sy.No.84 of Sulthanpalli village, Shamshabad Mandal, Ranga Reddy District under ex-serviceman quota, and his name was also recorded as pattadar in the revenue records from 1971-72 onwards. The petitioner made an application dated 09.10.2007 to the 2nd respondent-Collector for issuance of 'No Objection Certificate' to sell the above said land in favour of third parties. The said application was forwarded to the 4th respondent for enquiry and report. Accordingly the 4th respondent submitted a report stating that the original assignment file is not traceable in the office of the Tahsildar. Thereafter, the 2nd respondent issued the impugned proceedings dated 17.05.2013 stating that in view of non-availability of the original file, the issuance of 'No Objection Certificate' is rejected. Challenging the same the present writ petition is filed.

The impugned endorsement reads as under:

“With reference to subject and references cited, Sri T. Kishtaiah S/o. Ramaiah R/o. Sulthanpally Village, Shamshabad Mandal is informed that the issue of NOC for an extent of Ac.4.30 gts., in Sy.No.84 of Sulthanpally Village, Shamshabad Mandal has already been rejected in the District Level Committee meeting held on 13.01.2012 and memo has been issued informing the same, as the crucial records relating to the assignment of the subject land are not available. Once again this case has been reverified and found that his request for issue of NOC on the subject land cannot be considered. The applicant is informed accordingly.”

Heard learned counsel for the petitioner and learned Assistant Government Pleader for Revenue (Telangana) for respondents.

When the matter has come up on 22.01.2014 the learned Assistant Government Pleader for Revenue (Telangana) undertook to file counter affidavit on behalf of the respondents. Thereafter the matter was adjourned on several occasions.

In the counter affidavit filed on behalf of the 5th respondent there is no denial of the fact that the petitioner came to be assigned an extent of Ac.4.30 gts., of land. However, a doubt has been expressed that how the petitioner came to be assigned the land on 16.06.1969 under ex-serviceman quota, since even as per the petitioner he was in service between 31.06.1954 to 01.02.1976. Further it has been pleaded that the record pertaining to the assignment was not available with the respondents.

The fact that the petitioner was issued pattadar pass books and his name was entered in the revenue records is not categorically denied. The grievance of the petitioner in the present writ petition is in relation to not granting of 'No Objection Certificate' to enable him to sell the property. The issue whether an ex-serviceman can sell the land assigned to him or not is no more *res integra*.

In **Shaik Bade v. District Collector, Visakhapatnam and ors.**, this Court held that the ex-serviceman can alienate the land assigned to him under the ex-serviceman quota after a period of ten years from the date of assignment. The decision was arrived at by this Court considering the G.O.Ms.No.307, (Revenue (Assignments-I) Department, dated 06.06.2013 and also other relevant G.Os, which were issued from time to time. This aspect of the matter has not been disputed by the learned Assistant Government Pleader for Revenue.

In the circumstances, this writ petition is allowed setting aside the endorsement dated 17.05.2013. However, the 1st respondent is directed to issue 'No Objection Certificate' to the petitioner in terms of the relevant G.Os and consider the application of the petitioner for grant of NOC within a period of three months from today. No costs. As a sequel, miscellaneous petitions, if any, shall stand closed.

CHALLA KODANDA RAM, J.

26th March, 2015

Js.