

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

**FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

THURSDAY, THE SECOND DAY OF APRIL TWO THOUSAND AND FIFTEEN

Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.15907 of 2002

Between:

Teegala Venkat Reddy,
S/o. Narsi Reddy, Aged about 67 years,
Agriculturist, R/o. Badangangpet Village,
Saroornagar Mandal,
Ranga Reddy District & 5 others

.. Petitioners

AND

The Joint Collector,
Ranga Reddy District & 5 others

.. Respondents

The Court made the following:

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ORDER:

Claiming that the petitioners are in possession and enjoyment of land to an extent of Ac. 2.29 guntas in Survey No.27 of Badangpet Village, Saroornagar Mandal, Ranga Reddy District, which is classified as inam land, petitioners filed an application under Section 8 of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (for short, 'the Act'), before the Revenue Divisional

Officer, Hyderabad, East Division, Ranga Reddy District (2nd respondent). The Revenue Divisional Officer passed order, dated 27.05.2000, and issued Occupancy Rights Certificate to the petitioners. This order of the Revenue Divisional Officer granting Occupancy Rights Certificate in favour of the petitioners was challenged by way of appeal before the Joint Collector, Ranga Reddy District (1st respondent) by

Sri Balaji Venkateshwara Swamy Temple, Badangpet Village, Saroornagar Mandal, Ranga Reddy District (third respondent). Several contentions were urged before the appellate authority. The Joint Collector, vide orders, dated 18.03.2002, impugned in this writ petition, allowed the appeal by setting aside the order, dated 27.05.2000, passed by the Revenue Divisional Officer, Ranga Reddy District (2nd respondent). Challenging the same, this writ petition is instituted.

2. The case of the petitioners is that the ancestors of the petitioners Teegala Narsi Reddy and Teegala Dhan Reddy alias Dhanaiah were shown as occupants in Khasra Pahani in respect of the subject land and Guru Basavaiah's name was shown as inamdar and the subject land was shown as Mafi Inam in the Khasra Pahani for the year 1954-55. Even in the Sethwar for the year 1343 Fasli, the said land was shown as inam land and Guru Basavaiah's name was shown as pattadar. The petitioners 1 to 4 are legal representatives and successors of Teegala Narsi Reddy and petitioners 5 and 6 are sons and legal representatives of Teegala Dhan Reddy. The petitioners have succeeded to the subject property consequent to the demise of Teegala Narsi Reddy and Teegala Dhan Reddy.

3. On the contrary, the stand of the third respondent temple is that the temple is a very ancient temple existing from times immemorial and the temple is the absolute owner of land admeasuring Ac. 2.29 guntas in Survey No.27 of Badangpet Village, Saroornagar Mandal, Ranga Reddy District. In the Inams Register prepared by the District Collector, Hyderabad, the subject land is shown as land belonging to the 3rd respondent temple and it is also shown in the Muntaquab. Thus, the claim of the petitioners that they are entitled for

Occupancy Rights Certificate was opposed by the 3rd respondent temple.

4. Heard Sri L. Prabhakar Reddy, learned counsel for the petitioners, learned Government Pleader for Revenue for Respondent Nos.1 and 2, Sri Ch. Satish Kumar, learned Standing Counsel for the 3rd respondent and learned Government Pleader for Endowments for Respondent Nos.5 and 6. None appeared for the 4th respondent.

5. Learned counsel for the petitioners contends that the Joint Collector, Ranga Reddy District (1st respondent) erred in holding that in view of the provisions contained in Sections 5, 6, 7 and 8 of the Act, if the inam lands are held by or for the benefit of charitable and religious institutions, the institutions alone entitled to be registered as an occupant of the inam lands. The finding of the Joint Collector, Ranga Reddy District (1st respondent) that the land undoubtedly belongs to the third respondent temple, based on the entry in the Register of Inams, the Endowments Department and in Muntaquab, is erroneous.

6. Learned counsel for the petitioners further contends that the petitioners placed reliance on Khasra Pahani for the year 1954-55 and Sethwar for the year 1343 Fasli wherein the name of Guru Basavaiah was shown as inamdar/pattadar respectively. The names of ancestors of the petitioners were shown as occupants and in enjoyment of the said property. The land was also shown as Mafi land. These aspects were not considered by the Joint Collector, Ranga Reddy District (1st respondent) before allowing the appeal. Certainly if these aspects were considered by the Joint Collector even now, he could not have come to the conclusion as arrived at. Learned counsel for the petitioners further contends that the Joint Collector ignored the mandate of Section 4 of the Act to hold in favour of the 3rd respondent temple.

7. Learned counsel for the petitioners further contends that even though an elaborate order is drafted by the Joint Collector, it is not a speaking order and it does not deal with the specific contentions raised and specific provisions

which require consideration. Learned counsel for the petitioners further contends that the Endowment Register was not produced. The Assistant Commissioner was not a party to the proceedings before the appellate authority. It is not known when the record of Endowments Department was produced as referred to in the order of the Joint Collector. The said record was not produced in the presence of the petitioners. Learned counsel for the petitioners further submits that there is a reference to a copy of Muntaquab being produced by respondents before the Joint Collector, but it was not a valid document. It was not authenticated. Few loose papers were placed before the Joint Collector. Thus, the decision arrived at by the Joint Collector is erroneous, contrary to the law and is in violation of principles of natural justice.

8. Learned Standing Counsel representing the third respondent Sri Ch. Satish Kumar placing reliance on Rule 5 of the Andhra Pradesh (Telangana Area) Abolition of Inams Rules, 1975, contends that the claim of the 3rd respondent temple is that the land belongs to the 3rd respondent temple and the Endowment records reflect the land as belonging to the 3rd respondent temple. Thus, the Revenue Divisional Officer, Ranga Reddy District (2nd respondent) ought not to have passed orders of granting Occupancy Rights Certificate to the petitioners merely based on the application submitted by the petitioners without giving opportunity of hearing to the third respondent temple. On that ground alone, the order of the Revenue Divisional Officer is erroneous. Learned Standing Counsel, therefore, submits that if the order of the Joint Collector, Ranga Reddy District (1st respondent) is set aside, it would amount to reviving an illegal order passed by the Revenue Divisional Officer, Ranga Reddy District (1st respondent) and that in such a case, no remand can be granted.

9. As seen from the brief analysis of the contentions recorded above, counter averments in the affidavits filed in this writ petition, there are two contrasting claims to the very same extent of land, one by the petitioners and another by the 3rd respondent temple. The petitioners rely on the entry into the Khasra Pahani for the year 1954-55 and Sethwar for the year 1343 Fasli to claim that Guru Basavaiah is the inamdar and pattadar respectively and the petitioners'

ancestors were shown as occupants and are in possession and enjoyment all alone and, therefore, the petitioners are entitled for issuance of the Occupancy Rights Certificate under the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955. On the contrary, the 3rd respondent temple's stand is that the land belongs to the 3rd respondent temple and there is no manner of right to the petitioners. The Endowments Register maintained by the District Collector clearly disclose the status of the land as belonging to the 3rd respondent temple. It is also shown in the Muntaquab. Therefore, the Revenue Divisional Officer, Ranga Reddy District (2nd respondent) was erred in accepting the claim of the petitioners and granting relief to them even without giving opportunity of hearing to the third respondent temple.

10. As contended by the learned counsel for the petitioners, the Joint Collector, Ranga Reddy District (1st respondent) has not considered the entries made in the Khasra Pahani for the year 1954-55 and Sethwar for the year 1343 Fasli, which is the basis for their claim. The Joint Collector also seemed to have called for the records and verified the records of the Endowments Department beyond the back of the petitioners. Further more, there is no discussion on the contentions urged by the petitioners in support of the Occupancy Rights Certificate granted in their favour by the Joint Collector. Thus, the order of the Joint Collector suffers from non-application of mind, not considering the relevant facts on record, not affording due opportunity to the parties before the Joint Collector and not considering the relevant documents placed before the Joint Collector. Therefore, the order of the Joint Collector, Ranga Reddy District (1st respondent), dated 18.03.2002, is liable to be set aside.

11. As rightly contended by the learned Standing Counsel for the 3rd respondent temple, the order of the Revenue Divisional Officer, Ranga Reddy District (2nd respondent) also suffers from non-application of mind and violative of principles of natural justice. As successfully contended before the Joint Collector, the 3rd respondent temple also seems to have claim on the land and

the 3rd respondent temple rely on the records maintained by the Endowments Department and Muntaquab. Therefore, the Revenue Divisional Officer ought to have put the 3rd respondent temple on notice, afford opportunity of hearing before passing orders. Thus, the order of the Revenue Divisional Officer, Ranga Reddy District (2nd respondent), dated 27.05.2000, is also liable to be set aside on the ground of violation of principles of natural justice.

12. Having regard to the rival contentions and in the light of the above findings, the order of the Joint Collector, Ranga Reddy District (1st respondent), dated 18.03.2002, as well as the order of the Revenue Divisional Officer, Ranga Reddy District (2nd respondent), dated 27.05.2000, are set aside and the matter is remitted back to the Revenue Divisional Officer, Ranga Reddy District (2nd respondent) for undertaking *de-novo* enquiry on the claim of the petitioners for grant of Occupancy Rights Certificate. The Revenue Divisional Officer shall cause notice to Sri Balaji Venkateshwara Swamy Temple (3rd respondent) and afford them due opportunity of hearing and after hearing the rival parties, the Revenue Divisional Officer shall pass orders, as warranted by law. It is needless to observe that any person aggrieved by the orders of the Revenue Divisional Officer is entitled to avail remedies provided by the Act. As seen from the order of the Joint Collector, Ranga Reddy District (1st respondent), dated 18.03.2002, the relevant records are with the Endowments Department. Thus, the Assistant Commissioner of Endowments should also be put on notice by the Revenue Divisional Officer and he be given opportunity of producing relevant records. The petitioners as well as the 3rd respondent temple are permitted to verify the records produced by the Assistant Commissioner of Endowments before making their submissions.

13. Having regard to the fact that it is a long pending matter, the Revenue Divisional Officer, Ranga Reddy District (2nd respondent) is directed to undertake the exercise of conducting enquiry on the application of the petitioners for grant of Occupancy Rights Certificate within a time frame, as

expeditiously as possible, and preferably within a period of four (4) months from the date of receipt of a copy of this order. All the claims and counter claims of the parties are left open in view of the remand of the matter to the Revenue Divisional Officer. Till the orders are passed by the Revenue Divisional Officer, *status quo* obtaining as on today shall be maintained by the parties.

14. The Writ Petition is, accordingly, allowed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO, J

Date: 2nd April, 2015

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