

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH

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THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No. 38683 of 2015

BETWEEN

Manchikalapudi Venkata Krishna Rao

... PETITIONER

AND

The State of Andhra Pradesh, rep. by its Principal Secretary and others

...RESPONDENTS

Date of Order pronounced: 04.12.2015

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ORDER:-

Heard.

2. Aggrieved by the inaction of the respondents in making payment of lease amount pertaining to Ac.0-72 cents in Survey No.120/1 of Venkatapalem Village, Tullur Mandal,

Guntur District, which was handed over to the respondents under the land pooling scheme under The A.P. Capital Region Development Authority Act, 2014, (for short, "the Act"), petitioner has approached this court by the present writ petition.

3. During the hearing of this petition, learned Government Pleader for respondent Nos.2 and 3 was required to get instructions. Learned Government Pleader now submits on the basis of instructions of the Commissioner, APCRDA & CA, Vijayawada, that the petitioner filed consent application in Form 9.3 along with his other lands in order to participate in the Land Pooling Scheme. However, the Assistant Commissioner of Endowments also claimed interest in the said land on the ground that it belongs to Bhavani Sankara Swamy vari Devasthanam and on that basis the Competent Authority had issued orders in favour of the Executive Officer of the said Temple to be paid the compensation and petitioner was not having any title. However, the said order is only in the nature of orders passed under Rule 8(5) under Form 9.10 in Rc.No.965 of 2015 dated 22.09.2015. A copy of the said proforma is also furnished to the learned counsel for the petitioner.

4. Petitioner seriously disputes the entitlement of the said Temple authorities in claiming the compensation and disputes the ownership of the Temple. Section 50 of the Act provides that where there is a disputed claim to the ownership of any piece of land included in the area under the development scheme in respect of which a declaration of intention has been made and any entry in the record of rights or mutation relevant to such disputed claim is inaccurate or inconclusive, an enquiry may be held by Competent authority in case of any development scheme at any time before the final allotment of the reconstituted plot/land for the purposes of deciding as to who shall be deemed to be the owner for the purposes of this Act and pass orders as to the person who is entitled to be compensated.

5. Apparently, the orders of the competent authority under Form 9.10 under Rule 8(5) are only *ex parte* orders without notice to the petitioner and without hearing the claim of the petitioner. In my view, the decision with regard to person entitled to receive the compensation ought to have been made only after notice to petitioner who has already filed his claim. Hence, the Competent Authority respondent No.2 shall issue notice to the petitioner as well as the said Temple, after hearing both of them and then pass appropriate orders as to who is entitled to be compensated.

Writ petition is accordingly disposed of. As a sequel the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

December 4, 2015

LMV