

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

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

**THURSDAY, THE TWENTY THIRD DAY OF APRIL TWO THOUSAND AND
FIFTEEN**

Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.20548 of 2010

Between:

Thuraka Penchalaiah,
S/o. Ramanaiah,
Hindu, aged about 65 years,
Kanupuru Vaddipalem Village,
Venkatachalam Mandal,
SPSR District & another

.. Petitioners

AND

State of Andhra Pradesh,
Rep. by its Principle Secretary,
Revenue Department (Assignment),
Secretariat Building,
Hyderabad & 4 others

.. Respondents

The Court made the following:

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ORDER:

The petitioners claim to be landless poor persons and have been eaking out by cultivating the lands in Survey No.680 of Kanupur-I Village, Venkatachalam Mandal, SPSR Nellore District, to an extent of Ac. 1.50 cents and Ac. 1.60

cents respectively for several years and in recognition of the possession and enjoyment of the said land, lease was granted by the Revenue Divisional Officer, SPSR Nellore District (3rd respondent), in his proceedings, dated 14.03.1991, for a period of three years. Though the period of lease expired in the year 1994, the petitioners continued to cultivate the said land. The petitioners pray that this land should be assigned to them on permanent basis so that they can eak out their living by cultivating the said land. By proceedings, dated 23.10.2008, the District Collector, SPSR Nellore District (2nd respondent) passed orders directing the Tahsildar, Venkatachalam Mandal, SPSR Nellore District (4th respondent) to hand over Ac. 3.14 cents and Ac. 6.43 cents, total Ac. 9.57 cents, in Survey Nos.680/5 and 951/A1C-101 of Kanupur Bit I Village, Venkatachalam Mandal, to the Tourist Department for the purpose of establishing National Hereditary Tourism Complex in SPSR Nellore District. The said proceedings of the District Collector, SPSR Nellore District (2nd respondent) are under challenge in this writ petition.

2. Learned counsel for the petitioners contends that when the petitioners have been cultivating the very same extent of land, the Government ought not to have allocated the land for the purpose of establishing tourism institute and such action is *ex facie* illegal. It amounts to taking away the right of living vested in the petitioners. The petitioners have been cultivating the same land for decades. Learned counsel for the petitioners further contends that the same issue is subject matter of several other writ petitions challenging the said allotment of land by the farmers, who claim to be owners of the land. This Court granted interim orders on 20.08.2010. In view of the interim orders granted by this Court, the land is not given to the Tourism Department and the proposed tourism complex is not constructed. Further more, the District Collector, SPSR Nellore District (2nd respondent) issued proceedings on 03.01.2013 to hand over another extent of Ac. 10.00 cents in Survey Nos.432, 433 and 434 of Anikepalli Village of Venkatachalam Mandal to the Indian Institute of Tourism and Travel Management (IITTM) at Nellore for the purpose of establishing the South India Campus, which was originally envisaged in survey numbers mentioned above. Thus, the very purpose of allotting the land to the Tourism Department denying the assignment to the petitioners is no more available and

the claim of the petitioners ought to have been considered.

3. Learned counsel for the petitioners further contends that as seen from the Memo issued by the Government of Andhra Pradesh (1st respondent) on 25.06.2012 that a decision was taken by the Government that grazing lands under the possession and enjoyment of the eligible Sivoijama cultivators should be assigned to eligible Sivoijamadars after following the due procedure. Learned counsel for the petitioners, therefore, submits that in view of the proceedings and the petitioners being Sivoijamadars in possession and enjoyment, the land ought to have been assigned to them.

4. Learned Assistant Government Pleader denies the said contentions and submits that the land is Government land. The petitioners were never in possession and enjoyment except for three years in pursuant to the lease granted to them. The possession was handed over to the Tourism Department and the land continues to be in possession of the Tourist Department even though alternative land is also allotted to the Tourism Department. Learned Assistant Government Pleader submits that as instructed by the Tahsildar, Venkatachalam Mandal (4th respondent), the petitioners are not in possession and enjoyment as on today and the petitioners are not entitled for seeking assignment of the land in Survey No.680. The learned Assistant Government Pleader further submits that the petitioners earlier filed two writ petitions wherein they were unsuccessful and, therefore, no relief can be granted.

5. Admittedly, the land is Government land and except the proceedings of the Revenue Divisional Officer, SPSR Nellore District (3rd respondent), dated 14.03.1991, whereunder lease was granted for a period of three years, there is no material to show that the petitioners were in continuous occupation and enjoyment. The land was identified for the purpose of establishing South India Campus of National Hereditary Tourism Complex. The establishment of such a complex is in public interest and, therefore, the land was rightly identified. Due to pending litigation, as the establishment of the complex was unduly delayed,

the Government also identified alternative site for establishment of such complex. Merely because an alternative site is identified, it does not mean that the establishment of National Hereditary Tourism complex for public purpose is obliterated. Be that as it may, no right vests in the petitioners to insist for assignment of any particular land even assuming that they were earlier cultivating the said land. As seen from the proceedings of the Government of Andhra Pradesh (1st respondent), dated 25.06.2012, the policy of the Government is to assign grazing lands to the landless poor, who are in possession and enjoyment. Since the present land, which the petitioners claim to be in possession and enjoyment is already allotted to Tourism Department, the same land cannot be allotted even under the same policy. Thus, the relief as sought for by the petitioners cannot be granted.

However, if the petitioners are landless poor and are in need of land for cultivation and eking out living, it is open to petitioners to make a request. Liberty is granted to the petitioners to make a detailed representation in support of their claim for assignment of Government land. However, the claim of the petitioners can be considered for assignment of the land at any other place, if the petitioners are otherwise suitable and eligible for such assignment. Such a request of the petitioners shall be considered by the District Collector, SPSR Nellore District (2nd respondent), in accordance with the policy of the Government and a suitable decision, as warranted by law, be taken. Such a decision shall be taken within a period of four (4) weeks from the date of receipt of representation.

6. Accordingly, the Writ Petition is disposed of. 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: 23rd April, 2015

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