

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

Present

WRIT PETITION No.28574 of 2009

M. Venkatrama Naidu,
S/o. M. Krishnappa Naidu,
Aged 75 years, Ex-Serviceman,
R/o. Flat No.7, Greenpark Apartments,
D.R. Mahal Road,
Tirupati, Chittoor District & another

AND

.. Respondents

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HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.28574 of 2009

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ORDER:

The first petitioner claims to have purchased 192 square yards i.e., Ac. 0.04 cents in Survey No.43/3, T.D.No.2539 of Tirupati Village and Municipality from a person by name Omkara Das by way of a registered Sale Deed bearing No.4830 of 1985, dated 22.07.1985. The second petitioner claims to have purchased similar extent of land in the same survey number by way of a registered Sale Deed bearing No.4829 of 1985, dated 22.07.1985. However, the second petitioner retained only Ac. 0.03 cents. This land, which petitioners claimed to have purchased, is treated as Government land by the State. The petitioners applied for regularization of the said properties in accordance with 'The Andhra Pradesh Transfer of Rights to Certain Specified Categories of Occupants of Unassigned Government Lands Policy, 2008' notified vide G.O.Ms.No.166, Revenue (Assn. Pot) Department, dated 16.02.2008 (Regularization Policy). The grievance of the petitioners necessitating institution of this writ petition is that even though the petitioners have submitted applications for regularization under the above policy and they have fulfilled all the terms of the policy, no orders were passed regularizing the lands and on the contrary, the petitioners apprehended the petitioners would be

displaced from the said property.

2. This Court, by order, dated 29.12.2009, directed respondents 1 and 2 not to dispossess the petitioners from the said property.

3. The respondents filed counter and also filed Vacate Stay Petition praying to vacate the interim order passed by this Court on 29.12.2009.

4. The case of the respondents is that the petitioners are not in occupation and enjoyment of the said properties claimed to have owned by them and they have not fulfilled the conditions for grant of regularization in accordance with the policy notified in G.O.Ms.No.166, Revenue (Assn. Pot) Department, dated 16.02.2008. It is an open land and is not in occupation of any person including the petitioners. In the same piece of land, 'Dr. B.R. Ambedkar Balaheena Vargala Abhirudhi Sangam' celebrates annual programmes. 'Dr. B.R. Ambedkar Balaheena Vargala Abhirudhi Sangam' has applied for grant of the said land in favour of the Sangam and the proposals are now pending with the Social Welfare Department. Since the petitioners were not in occupation and enjoyment, the question of displacement of the petitioners would not arise and, therefore, sought for vacation of the earlier interim orders granted by this Court on 29.12.2009.

5. Heard the learned counsel for the petitioners and the learned Assistant Government Pleader for the respondents. With the consent of learned counsel, the writ petition is heard and disposed of.

6. From time to time, the Government has issued orders to regularize illegal encroachments and constructing of dwelling houses on the Government lands more as compassion to the persons in such illegal occupation for a long period of time. On review of the earlier orders, the Government desired to come out with a policy containing comprehensive guidelines in order to have uniformity in dealing with the occupations in respect of the Government lands and, accordingly, 'The Andhra Pradesh Transfer of Rights to Certain Specified Categories of Occupants of Unassigned Government Lands Policy, 2008' was notified. A person is said to be in occupation of the Government land provided he was in such occupation on or before 31.12.2003. The person needs to establish such occupation by production of documents mentioned in para 5 of the policy. The documents required to be produced are as follows:

- "a) Registered document of purchase.
- b) Electricity connection.
- c) Construction permission from a Local
Body /
Competent Authority.
- d) Receipt of payment of property tax.
- e) Water supply connection document
- f) House hold supply Card.
- g) Telephone connection document."

7. As seen from the material papers filed along with the writ petition and the representations submitted by the petitioners praying for regularization of the properties they claim to have owned, no evidence is shown in support of their claim that they are in occupation as required by para 5 of the policy in order to qualify for regularization. The respondents in the counter

affidavit also categorically asserted that the petitioners are not in occupation and enjoyment. On an application submitted by 'Dr. B.R. Ambedkar Balaheena Vargala Abhirudhi Sangam', physical verification of the land in Survey No.43/3 was conducted and the land was found to be vacant and the petitioners were not in possession. It was also noticed that the Sangam celebrates annual programmes every year in the same land and other public organizations also conduct functions. The celebrations are going on for the last more than 20 years. Even though this has been the categorical assertion of the respondents in the counter affidavit, there is no denial of the said assertion and no material is filed in support of the claim of the petitioners that they are in occupation and enjoyment and the conditions of G.O.Ms.No.166, Revenue (Assn. Pot) Department, dated 16.02.2008, are fulfilled.

8. As the assertion of the respondents that the petitioners are not in occupation and that it is a vacant land being utilized for conducting various functions by the Social Welfare Department and other organizations is not disputed and no material is brought on record to show that the petitioners are in occupation. The petitioners are not qualified to seek regularization in accordance with 'The Andhra Pradesh Transfer of Rights to Certain Specified Categories of Occupants of Unassigned Government Lands Policy, 2008' notified in G.O.Ms.No.166, Revenue (Assn. Pot) Department, dated 16.02.2008. The scheme of regularization is intended to confer title to the persons, who are in continuous occupation and enjoyment for a long time and belong to the lower strata of the society. It is a benevolent scheme launched by the State, though the persons are admittedly in illegal occupation of the Government land. Therefore, a person seeking to avail the

benefit of the scheme must comply with the strict mandate of the scheme and it is for him to satisfy that he fulfills the conditions of the scheme in all respects in order to qualify grant of the benefit of the scheme. The petitioners have miserably failed in satisfying the Court that they are entitled to take advantage of the scheme for regularization as per the policy.

9. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO,

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Date: 22nd January, 2015

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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