

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE S.V.BHATT

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W.A.No.667 OF 2005

PC: (per Hon'ble Sri Justice S.V.Bhatt)

The writ appeal is directed against the order dated 02.12.2004 in W.P.No.5478 of 1997. Respondents in the writ petition are the appellants. The parties are referred as arrayed in the writ petition.

W.P.No.5478 of 1997 was filed praying for Mandamus declaring the action of respondents in de-notifying the lands bearing Survey Nos.29 and 39 in an extent of Ac.0-33 cents and Ac.1-26 cents respectively of Vikarabad Village and Mandal, Ranga Reddy District, as illegal and consequently quash Memo dated 23.12.1993 published in A.P. Gazette dated 10.01.1994 and a further prayer to direct the respondents to pay compensation as per the provisions of the Land Acquisition Act, 1894.

The facts and circumstances leading to the filing of the present writ petition are not in dispute and further no grievance against narration of these details in the order under appeal is made at the time of hearing by the learned counsel appearing for the parties. Further to the above circumstance, the learned counsel appearing for the writ petitioners has brought on record the decree and judgment in O.P.No.444 of 1988 on the file of A.P. Land Grabbing (Prohibition) Tribunal, Ranga Reddy District. The said O.P. was filed by the Mandal Revenue Officer, Vikarabad claiming right and title in land covered by Survey No.39 of Vikarabad Village and Mandal. Through order dated 04.12.1995, the claim of Government was rejected and O.P. was dismissed. The order dated 04.12.1995 was confirmed in LGA No.20 of 1996 dated 19.02.1997 by the Special Court under A.P. Land Grabbing (Prohibition) Act at Hyderabad. It is further brought to our notice that the District Collector, Ranga Reddy District in Communication No..../4975/95 called upon the Mandal Revenue Officer, Vikarabad to take action for rectification of entries in the Pahani in respect of the land possessed by Crawford Memorial Hospital, Vikarabad (Church) for Survey Nos.29, 30, 31, 33, 34, 35 and 39 and issue certified copy of Pahanai to petitioners

accordingly. From these circumstances, it is evident that the respondents *expost facto* admit the title of writ petitioners for the petition land and deprivation of such right without recourse to law is unconstitutional.

Now advertent to the order under appeal, the learned Single Judge after considering the fact in issue whether the de-notification through memo dated 23.12.1993 published in A.P. Gazette dated 10.01.1994 is tenable or not, has recorded the following finding:

“The other contentions relating to the revenue entries, dispute relating to the title, land grabbing proceedings and the result thereunder need not detain this Court any longer in view of the fact that the language of Section 48(1) of the Act is clear and categorical and in the light of the stand taken by the Government in the prior Writ Petition W.P.No.1007/93, this Court has no hesitation at all in holding that in the present Writ Petition, there is a shift relating to the stand of not taking possession only with a view to avoid payment of compensation and nothing more and nothing beyond. Inasmuch as the prayer which had been prayed for in the present Writ Petition is as specified supra, the other contentions need not be dealt with elaborately. For the foregoing reason, this Court is of the considered opinion that the withdrawal or the denotification issued by the Government exercising powers under Section 48(1) of the Act definitely cannot be sustained and hence the impugned proceedings are hereby quashed and the Writ Petition is accordingly hereby allowed. Costs quantified at Rs.5000/- payable to the writ petitioners.”

We have heard the learned Government Pleader for land acquisition and Sri N.Vasudeva Reddy for petitioners.

The basis for de-notification of land in Survey Nos.29 and 39 is that the respondents claim the land in an extent of Ac.1-59 cents as Government land. From the material placed on record in the writ petition, the order of Special Court, the proceedings of District Collector etc. would clearly go to show that the claim of respondents of petition land as Government land is without merit and consequent de-notification as rightly held by the learned Single Judge is untenable. The deprivation of property without recourse to the procedure stipulated by law on the assumption that the petition land is Government land could not be satisfactorily established by the Government. We are in complete agreement with the order under appeal.

The writ appeal is dismissed. No costs.

Consequently, miscellaneous petitions, if any pending, also stand disposed of.

DILIP B.BHOSALE, ACJ

S.V.BHATT,J

Date: 29.10.2015

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