

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

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WRIT PETITION No.30731 OF 2011
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ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue and with their consent the writ petition is disposed of at the admission stage.

2. The present Writ Petition came to be filed seeking issuance of a writ of *mandamus* declaring the inaction of the respondents in allotting house site to the petitioner as per his entitlement in terms of G.O.Ms.No.92, dated 30.05.2005 as arbitrary and illegal and consequently, direct the respondents to allot a house site to the petitioner in accordance with the above G.O.

3. The averments in the affidavit filed in support of the writ petition show that the petitioner herein was enrolled into the Madras Regiment of Indian Army on 23.02.1971 as Sepoy in the trade of Infantry Soldier (GD). He sustained war injury during the Indo-Pak War in December, 1971 and subsequently, he was discharged from service w.e.f. 25.06.1975 with War Disability Pension and all consequential benefits. While things stood thus, Government of Andhra Pradesh issued G.O.Ms.No.92, dated 30.05.2005 extending the benefit of allotment of house site of 300 square yards in rural and urban areas to the Ex-Servicemen, those who were disabled in action with enemy forces. Since the petitioner was disabled, he made an application for allotment of house site and made several subsequent representations requesting the authorities concerned to allot the house site. Their

inaction led to filing of the writ petition.

4. By an order, dated 29.11.2011, this Court observed as under:

“It is now stated in the counter affidavit filed by the District Collector that 290 Square Yards of house site in Survey No.130/2B of Karvetinagar Village of Karvetinagar Mandal head-quarters has been identified; and house site patta will be issued following due procedure, and in compliance with the provisions of G.O.Ms.No.92 dated 30.05.2005.

The petitioner is a disabled ex-service man having suffered injury in the year 1971 in Indo-Pak war. More than 40 years have elapsed since then, and more than 6 years have elapsed since G.O.Ms.No.92 dated 30.05.2005, was issued. The District Collector has now identified a plot. As to when the plot would be demarcated, and handed over to the ex-service man is not clear from the counter affidavit. It is but appropriate that the District Collector files an additional affidavit giving the specific time frame within which the plot would be demarcated, and possession would be handed over to the petitioner herein.”

5. Counter and Additional Counter came to be filed on behalf of the 2nd respondent. Additional Counter discloses that plot was demarcated and possession was handed over to the petitioner on 16.12.2011 under proper acknowledgment. He also placed on record the site patta, sketch and acknowledgement.

6. Learned counsel for the petitioner submits that though the additional counter discloses that possession has been handed over to the petitioner, but the said land is a disputed one and not free from encumbrance. But, however, learned Government

Pleader for Revenue asserts that as per the averments in the additional counter affidavit sworn by the District Collector, the plot was handed over to the petitioner under proper acknowledgement and the same is free from any dispute.

7. Though the learned counsel for the petitioner submits that the plot is in dispute, he did not file any document showing the same. In the reply affidavit filed by the petitioner it has been stated that when he went to the plot on 16.12.2011, he received objections from the DW CRA Women stating that the same belongs to them. But, the additional counter filed by the District Collector on 24.12.2011 discloses that the plot was handed over to the petitioner on 16.12.2011 under proper acknowledgement.

8. Having regard to the circumstances stated above, since the plot has already been demarcated and handed over to the petitioner under proper acknowledgment, nothing survives for adjudication in the writ petition.

9. Accordingly, the Writ Petition is disposed of, leaving it open to the petitioner to avail the remedy in case any dispute arises with regard to ownership. Miscellaneous Petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

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JUSTICE C. PRAVEEN KUMAR

Date:31.12.2015

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