

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

WRIT PETITION No.31291 of 2012

Between:

Padi Pratap Reddy

.. Petitioner

and

The District Collector, Warangal and others

.. Respondents

JUDGMENT PRONOUNCED ON: 28th October, 2015

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

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| 1. Whether Reporters of local newspapers may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be marked to Law Reporters/Journals? | Yes/No |
| 3. Whether their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

CVNR,J

*** THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY**

+ WRIT PETITION No.31291 of 2012

% 28.10.2015

Padi Pratap Reddy

.. Petitioner

Vs.

\$ The District Collector, Warangal and others

.. Respondents

! Counsel for the petitioner: Mr.K.Narsi Reddy

Counsel for respondent Nos.1 and 2: Government Pleader
for Revenue (Assignments) (TS)

Counsel for respondent Nos.3 to 5: None appeared

<Gist :

>Head Note:

? Cases referred:

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Counsel for respondent Nos.3 to 5: None appeared

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The Court made the following:

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ORDER:

This writ petition is filed for a *mandamus* to declare the action of respondent No.3 in interfering with the petitioner's peaceful possession and enjoyment of the land admeasuring Acs.10.00 in survey No.1098 of Narsapur Village, Venkatapur Mandal, Warangal District, and causing damage to the standing crop therein as well as bore-well, as illegal and arbitrary. The petitioner sought for a consequential direction to respondent Nos.3 to 5 to grant compensation of Rs.6,00,000/- to him.

The petitioner averred that his father was a freedom fighter. That having recognized his father's services to the Nation during the freedom struggle, the State Government allotted an extent of Acs.10.00 in survey No.1098 of Narsapur Village, *vide* proceedings No.B/1500/89 of the Mandal Revenue Officer, Venkatapur Mandal, Warangal District, dated 16.02.1997. That during the life time of his father, he was cultivating the said land and after his death in the year 2007, the petitioner has been cultivating the same by raising different crops.

The petitioner further averred that on 12.08.2012, respondent No.3 along with 30 persons came to his land and damaged the standing crop as well as the existing bore-well without prior notice. That as respondent Nos.3 to 5 claimed the land to be a part of reserve forest, land survey was held, following which respondent No.1 issued proceedings No.E4/3708/2011, dated 25.08.2011, wherein he has decided not to disturb the long standing possession of the cultivators in the forest area. That respondent No.2 issued proceedings No.B/504/2012 dated 28.08.2012 addressed to respondent No.3,

wherein he has stated that in view of the guidelines issued by respondent No.1, the petitioner is entitled to continue his possession. That despite the said proceedings, respondent Nos.3 to 5 have been interfering with the petitioner's possession of the land in question.

No counter-affidavit is filed by respondent Nos.1 and 2. On behalf of respondent Nos.3 to 5, a counter-affidavit has been filed by respondent No.3. The substance of the averments in the counter-affidavit is to the effect that the land in survey No.1098 of Narsapur Village was notified as Jakaram III Forest block, *vide* Rural Reconstruction Department notification No.259, dated 09.11.1955 and was declared as protected forest. That the land claimed by the petitioner falls under compartment No.612 of Jakaram Forest III. That as per the available record, it is found that the then Tahsildar, Venkatapur Mandal, issued pattas in respect of certain extents in violation of Section 2 of the Forest (Conservation) Act, 1980. That on instructions of the Joint Collector, Warangal, dated 09.11.2010 and 11.05.2011, the Revenue and Forest Officials have conducted joint survey and decided to take up further course of action to cancel all the assignments made in survey No.1098 of Narsapur Village, to fix the boundaries by the Forest Department and also to make entries in the Pahanis as forest land. That the District Collector, Warangal, issued proceedings in Rc.No.E4/3708/2011, dated 25.08.2011, for cancellation of the assignments made in the Forest Blocks and issued directions to the Tahsildar, Venkatapur Mandal, to record forest land in the revenue records, wherever the land is found as part of notified Forest by the Revenue Department, and the Forest Department would go for trenching along the boundaries of forest and inform clearly to the local people that criminal cases will be booked against the encroachers. That accordingly, the Tahsildar, Venkatapur Mandal, submitted a proposal and recommended cancellation of pattas assigned in survey No.1098 of Narsapur Village to the Sub-Collector,

Mulug, *vide* proceedings in Rc.No.A/9005/2010, dated 02.02.2012. Counter-affidavit relied upon Section 2 of the Forest (Conservation) Act, 1980, (for short 'the Act'), which reads as under:

“Restriction on the dereservation of forests or use of forest land for non-forest purpose:-

Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall made, except with the prior approval of the Central Government, any other directing-

(i)...

(ii)...

(iii) that any forest-land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organization not owned, managed or controlled by Government.”

The following facts are undisputed: (i) The petitioner's father was a freedom fighter; (ii) In recognition of the services rendered by him, the petitioner's father was assigned Acs.10.00 of land in survey No.1098 of Narsapur Village as far back as 16.02.1997; (iii) During the life time of the petitioner's father, he was in possession and cultivating the assigned land and after his death in the year 2007, the petitioner has been in possession and cultivating the said land; and (iv) The joint survey held by the Revenue and Forest Departments revealed that the assigned land forms part of the protected forest and that under Section 2(iii) of the Act, no forest land or any portion thereof can be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organization not owned, managed or controlled by the Government.

With a view to suitably reward the freedom fighters for their selfless services rendered to the Nation during the freedom struggle, the State Government has evolved certain policies. One such policy envisages assignment of agricultural land. The policy, therefore, presupposes that the land that is to be assigned must be a free-hold land free from restrictions on enjoyment. It is regrettable to note that when the petitioner's father was chosen for assignment, respondent No.2

assigned the land, which is admittedly a part of the protected forest. By assigning such land, the assignee as well as his family members faced serious difficulties with the Forest Department interfering with their possession and enjoyment of the land. In my opinion, surely this is not the way, a freedom fighter and his family must be treated. Keeping this in view, on 02.09.2015, this Court has directed the learned Government Pleader for Revenue (Assignments) (TS) to instruct respondent Nos.1 and 2 to explore the possibility of assigning alternative land. As noted hereinbefore, the learned Government Pleader for Revenue (Assignments) (TS) has reported that no suitable agricultural land is available in Venkatapur Mandal or Parakal Mandal. He has placed reliance on Clause 3.2 in G.O.Ms.No.185, Revenue (Assn-I) Department, dated 11.03.1997, which reads as under:

“Assignment of land for agricultural purpose shall not be considered unless the land is available in the native village of the freedom fighter where it is not required for any public purpose and house sites.”

It is true that if the petitioner is seeking assignment of land for the first time, the above reproduced clause of the aforementioned G.O. is applicable, but here is a case where knowingly or unknowingly respondent No.2 has assigned forest land to the petitioner's father nearly two decades back. It is too late in the day on the part of respondent No.2 to state that the petitioner must be left high and dry on the purported ground that no land for agricultural purpose is presently available in his native Village and Mandal. Had respondent No.2 been diligent in the year 1997 itself, it would have been possible to assign non-forest free-hold land. The petitioner cannot be made to suffer on account of the mistake of the then Tahsildar, deliberate or *bona fide* in assigning forest land to the petitioner's father.

With regard to the submission of the learned Government

Pleader for Revenue (Assignments) (TS) that the petitioner's family owns Acs.6.00 of dry land and that he has been running a fair price shop besides his wife being a member of ZPTC, all these facts do not disentitle the family of the petitioner to assignment of alternative land because the assignment was not made to the petitioner or his wife, but to his father in recognition of his services as freedom fighter.

In the light of the above facts and circumstances of the case, respondent Nos.1 and 2 are directed to assign alternative agricultural land in the petitioner's native Village or Parakal Mandal, if the same is available, or at least in any Mandal adjacent to Parakal Mandal within a period of three months from the date of receipt of a copy of this order. The land so allotted shall be suitable for agricultural purpose. Till such alternative land is assigned to the petitioner, he shall not be evicted from the land assigned to his father in survey No.1098 of Narasapur Village, Venkatapur Mandal.

Subject to the above directions, the Writ Petition is disposed of.

As a sequel to disposal of the writ petition, W.P.M.P.No.39898 of 2012 shall stand disposed of and W.V.M.P.No.3864 of 2012 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

28th October, 2015

Note: L.R. copies to be marked.

(B/o)

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