

*** THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO**

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+ WRIT PETITION NOS. 32743, 33649, 33650 AND

33651 OF 2014

% Dated 31.03.2015

W.P.No.32743 of 2014

Smt. B. Balamma

W/o Late Begari Pedda Sailu

R/o Dacharam Village, Jinnaram Mandal

Medak DistrictPetitioner

Vs.

\$ The State of Telangana

Rep. by its Principal Secretary

Revenue Department, Secretariat,

Hyderabad-500 004 and 3 othersRespondents

! Counsel for the petitioners : M/s C.M.R. Velu & V. Sriprakash

^ Counsel for the respondents :

1. G.P. for Revenue (TG)

2. Sri B. Narayana Reddy, Assistant Solicitor General

W.P.No.33649 of 2014

Dappu Veeraswamy

S/o Late Pochaiah

R/o Dacharam Village, Jinnaram Mandal

Medak DistrictPetitioner

Vs.

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^ Counsel for the respondents :

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2. Sri B. Narayana Reddy, Assistant Solicitor General

W.P.No.33650 of 2014

Sri Beri Narasimhulu

S/o Late Pochaiah

R/o Dacharam Village, Jinnaram Mandal

Medak DistrictPetitioner

Vs.

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W.P.No.33651 of 2014

Sri Dappu Narsing Rao

S/o Late D. Pochaiah

R/o Dacharam Village, Jinnaram Mandal

Medak DistrictPetitioner

Vs.

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? Cases referred

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

**WRIT PETITION NOS. 32743, 33649, 33650 AND
33651 OF 2014**

COMMON ORDER:

All these four writ petitions raise common contentions against the respondents who are common in all the four cases. The petitioners seek identical relief of a declaration that the action of the respondents in taking over the land of the petitioners of varying extents situate in Dacharam Village, Jinnaram Mandal, Medak District, without following the due process of law as arbitrary, illegal, unjust and violative of Article 300-A of the Constitution of India and they also sought for a consequential direction to the respondents to pay compensation to the petitioner in each case as per the market value.

The petitioner in W.P.No.32743 of 2014 contends that her husband Late Sri Begari Pedda Sailu owned and possessed land of an extent of Ac.2-24 gts situate in Sy.Nos.64,72,82 and 118 in Dacharam Village, Jinnaram Mandal, Medak District. It is her further case that her husband died on 26.04.2014 and hence she has succeeded to her estate. It is her case that the land in question was lying in close proximity to the campus of Air Force Academy, Dindigul, Hyderabad, but however, her husband has carried on agricultural operations in the land. While so, sometime during the year 2008 the Air Force Academy allocated part of their land to the fourth respondent, Defence Research and Development Organization and that the fourth respondent started digging the land for construction of a runway and the excavated earth was dumped at the land of the petitioner rendering it useless for carrying on agricultural operations. It was further asserted by the petitioner that the defence personnel are not allowing the petitioner to approach her land. However, in paragraph 4 of the affidavit filed in support of this writ petition, it is asserted as under:

“....Further there is a runway close to my land, the question of myself going there or cultivating the land does not arise. The Respondents have in fact grabbed my land without following the due process of law.....”

The petitioner in W.P.No.33649 of 2014 would assert that he owns land of an extent of Ac.3-19 gts situate in Sy.Nos.156, 75, 114 & 118 of Dacharam Village, Jinnaram Mandal, Medak District. It is his case that after the death of his father, he has succeeded to his estate. Rest of the pleadings set up by this petitioner including the assertion of the earlier writ petitioner quoted supra were identical.

The petitioner in W.P.No.33650 of 2014 has asserted that he owns and possesses land admeasuring Ac.0-11 gts situate in Sy.No 114 of Dacharam Village, Jinnaram Mandal, Medak District, which he had succeeded to after the demise of his father. What all has been stated in the rest of the affidavit is verbatim the same as was set out in W.P.No.32743 of 2014.

Similarly, the petitioner in W.P.No.33651 of 2014 has asserted that he was the owner and possessor of land admeasuring Ac.0-29 gts situate in Sy.No.156 and 75 of Dacharam Village, Jinnaram Mandal, Medak District. He had succeeded to the said land after the death of his father. Verbatim the same pleas which have been set up in W.P.No.32743 of 2014 have been repeated.

On behalf of the fourth respondent-Director, Research Centre Imarat, of Defence Research and Development Organization (DRDO), Ministry of Defence, filed a detailed counter affidavit. In paragraph (3), it was asserted that during the years 1960 and 1962, lands of an extent of Ac.6,807-31 gts spread over 13 villages lying in Medak District and the former Hyderabad District have been acquired by the State for establishment of Air Force Academy by the Ministry of Defence. Out of the total extent of land so acquired, land of an extent of Ac.5,315-15 gts is securely fenced and the said land is being used exclusively for the purpose of operating the Air Force Academy. The balance extent of land of nearly Ac.1,492-16 gts is lying outside the secure fence set up by the Air Force Academy. Land situate in Dacharam Village and Darugulla Village are proximately lying in the middle of this extent of Ac.1,492-16 gts lying outside the secure fence of the Air Force Academy. It was further asserted that Research Centre, Imarat (RCI) is one of the important laboratories forming part and parcel of Defence Research and Development Organization (DRDO), Ministry of Defence. RCI was sanctioned an important defence project

known as “Open Test Range Facility ORANGE)” by the Ministry of Defence, Government of India. For facilitating this project to be operationalized, land of an extent of Ac.1492.16 gts belonging to the Air Force Academy (AFA) was transferred to DRDO by the Ministry of Defence, in view of the proximate activity to be carried out in the project with that of AFA. When certain disputes have been raised by the local villagers, when developmental activities in these lands were undertaken, to set at rest all speculative claims, a joint survey was undertaken with the Revenue Department Authorities of the State Government, the Defence Estate Office and the local villagers, along with the representatives of the AFA and DRDO. The Revenue Divisional Officer of the State Government has initially raised apprehension as to whether land of an extent of Ac.33-10 gts comprising of Ac.4-17 gts of private patta land and Ac.28-33 gts of Inam land in Dacharam Village has been acquired for establishing the AFA. This has, perhaps speculated claims like the one in the present crop of writ petitions.

However, the DRDO has brought out that the State of Andhra Pradesh has notified in Andhra Pradesh Gazette No.28-C published on 12.06.1962 acquiring lands including Ac.33.10 gts over which the Revenue Divisional Officer has initially expressed doubts about their acquisition. The Special Deputy Collector (Defence), of the then Hyderabad District has also made available a statement showing village wise and survey number wise the area for which “AIN IZAFA” affected in the year 1969 in the name of Ministry of Defence, Government of India. It is asserted that the land falling in Sy.Nos.64, 72, 82 and 118 of Dacharam Village which is forming part and parcel of the disputed land stood acquired and vested in Ministry of Defence. When the initial apprehensions have been aired by the Revenue Divisional Officer, Ministry of Defence expressed its desire and opinion to have the matter verified thoroughly by reexamining the land records to avoid duplicity of acquisition proceedings. But however, in view of the larger public interest, and the urgency of the requirement of land, a sum of Rs.14.4 crores was sanctioned under Rehabilitation And Resettlement National Policy, 2007 and 50% of the said amount, i.e. Rs.7.2 crores were deposited by the Ministry of Defence with the Collector, Medak on 30.03.2012 by the DEO, A.P. Circle, Secunderabad. In view of the Andhra Pradesh Gazette Notification No.28-C issue dated 12.07.1962, (I am treating the scanned copy of this as Annexure-1 to this judgment) it is asserted that the question of acquisition of the land once again would not arise.

Heard Sri C.M.R. Velu, learned counsel for the petitioners, the learned Government Pleader for Revenue on behalf of the State of Telangana-the first respondent and the District Collector, Medak-the second respondent, and on behalf of the Defence Estate Officer-the third respondent, DRDO-the fourth respondent Sri B. Narayana Reddy, the learned Assistant Solicitor General appeared.

In view of the serious nature of the averments made by the petitioners, I have called for the presence of the Director, RCI and DEO and interacted with them in the Court Hall.

A very short question has fallen for consideration in these cases. As to whether the fourth respondent can utilize lands belonging to the citizens of this Country without first acquiring it in accordance with law, however important the project of the Ministry of Defence is from the stand point of view of the Defence requirements of this Country. If, the land stood acquired once before and compensation has also been paid off, the question of acquiring the same land all over again or paying off compensation in respect thereof once more would not simply arise.

The learned Assistant Solicitor General has enclosed a copy of the supplement to Part-I of the Andhra Pradesh Gazette Notification No.28-C published on Thursday, July 12, 1962 to the counter affidavit filed on behalf of the fourth respondent. At page 28 of this Gazette publication, one would find a notification issued through G.O.Ms.No.965, Revenue (H) Department, Government of Andhra Pradesh dated 21.06.1962. It was a declaration by the Governor of Andhra Pradesh under Section 6 of the Land Acquisition Act, that the lands specified therein are needed for a public purpose namely for establishing the Indian Air Force Academy. Further, in terms and in accordance with Sections 3 & 7 of the Land Acquisition Act appointing the Special Deputy Collector, Land Acquisition, Air Force Academy, Hyderabad, to perform the functions of a Collector under the Act was also published. Most significantly, the notification further proceeded by authorizing the possession of the said lands to be taken on the expiry of 15 days from the date of publication of the notice mentioned in Section 9(i) of the Act. All the necessary details of the lands declared thus under Section 6 of the Land Acquisition Act relating to Dacharam Village are published at page no.33 onwards of the said gazette notification. At internal page 34, patta land of an extent of Ac.0.06 gts lying in Sy No.64/A belonging

to Begari Narsiga and Begari Lachiga were notified. Similarly, patta lands belonging to Yedlakadi Pentaiah, Rajiah, Bhoomiah, Begari Bhooma and Nellavalli Malliah of an extent of Ac.0.07 cents lying in Sy.No.64/B were also shown. Similarly, patta land of an extent of Ac.0.28 gts lying in Sy.No.72/A belonging to Begari Narsiga and BEgari Laxmiga were notified. Patta land of an extent of Ac.0.29 gts lying in Sy.No.72/B belonging to Begari Bhumiah, Malliga, Begari Rajiga, Yedlakadi Pentiah, Bhumiah and Rajiga were also declared. Private patta land of an extent of Ac.0.25 gts lying in Sy.No.82/A belonging to Begari Narsiga and Lachmiga and private patta land of an extent of Ac.0.24 gts lying in Sy.No.82/B belonging to Begari Rama, Begari Malliga, Begari Rajiga, Yedlakadi Linga, Yedlakadi Bhooma and Yedla Rajiga were also notified. Private patta land of Ac.4.0 lying in Sy.No.118 belonging to Raghavaiah Pujari (Lawaris) was notified and the aforementioned particulars were found at page 35 of the gazette notification. A photocopy of this gazette notification was in fact attested by the Deputy Director, A.P. State Archives and Research Institute, Tarnaka, Hyderabad, for its authenticity. The necessary orders were passed by the State Government acting through Sri C. Seshagiri Rao, Secretary to the Revenue Department at the relevant point of time.

In the face of the declaration under Section 6 of the Land Acquisition Act notified in the Andhra Pradesh Gazette issue dated 12.07.1962, the case and claim of each of the writ petitioners, the assertions made by the petitioners that the respondents have occupied their lands without following the due process of law are devoid of any substance or substratum. Obviously, such assertions were made without having the benefit of consulting the gazette notifications, by which the lands in question were acquired. The learned Assistant Solicitor General has enclosed the order of the Special Deputy Collector, Land Acquisition (Defence), Hyderabad District, disclosing that "AIN IZAFA" in Medak District was affected to the extent of Ac.1,962-31 gts village wise, survey number wise, extent wise particulars have also been displayed obviously making it clear that compensation was settled and paid to the true owners of the lands. At internal page 5 of this, "AIN IZAFA" of Dacharam Village has been published. Land of Ac.0-06 gts lying in Sy.No.64/A, Ac.0-07 gts lying in Sy.No.64/B, land of an extent of Ac.0-29 gts lying in Sy.No.72/A, Ac.0-29 gts lying in Sy.No.72/B, Ac.0-08 gts lying in Sy.No.74, Ac.0-25 lying in Sy.No.82/A, Ac.0-84 gts lying in Sy.No.82/B and land of Ac.4-00 lying in Sy.No.118 are part of a total extent of Ac.396-08 of Dacharam Village for which "AIN IZAFA" was completed. In view of this data, the learned Government Pleader Sri C.V. Bhaskar Reddy would submit

that the claim of the petitioners is totally ill-founded and far from true.

On 08.02.1965, the Ministry of Defence, Government of India, in their communication to the Chief of Air Staff conveyed the sanction of the President to the revised estimated cost of Rs.62.00 lakhs for acquisition of Ac.5,164-29 gts of private owned land along with 14 public tanks for establishing the Air Force Academy towards payment of solatium at 15% and compensation for buildings, houses, trees, etcetera. Most importantly, sanction of the President was also communicated for acquisition of Ac.1,809-23 gts of government land to be transferred to the Indian Air Force free of cost by the Government of Andhra Pradesh. From this communication, it is more than clear that approximately Ac.6,974 and odd land belonging to private parties as well as the Government of Andhra Pradesh has been acquired in accordance with law for establishing the Indian Air Force Academy. There is also another communication dated 27.12.1967 of the Ministry of Defence addressed to the Chief of Air Staff conveying the sanction of the President to the acquisition of Ac.497-31 gts of private owned land additionally at an estimated cost of Rs.2.90 lakhs. Through another communication dated 28.08.1969 of the Ministry of Defence to the Chief of Air Staff, sanction of the President to the acquisition of private patta land of a total extent of Ac.91-32 gts at an estimated cost of Rs.99,000/- has also been conveyed. In the annexure to this communication dated 21.08.1969, land of Ac.3.0 lying in Sy.No.42 of Dacharam Village was also notified. Thus, the assertions made by the petitioners that their lands have not been acquired is a factually incorrect and unsustainable statement.

On my further probing, the learned Assistant Solicitor General has secured and made available copies of the awards passed by the Land Acquisition Officer in respect of various lands acquired for purposes of establishing the Indian Air Force Academy at Dindigul, Hyderabad. Copy of the award bearing No.E/40/66 dated 29.10.1966 passed by the Collector for the Lands, for which claim has been made in these writ petitions is also enclosed. (I am treating the scanned copy of this as Annexure-2 to this judgment). It was also brought out that the Ministry of Defence at its Air Headquarters had accorded sanction on 14.01.2008 to transfer the management of Air Force land of an extent of 2.5 kms x 2 kms to DRDO for 'ORANGE' facility. The sanction of the President in this regard is enclosed as an annexure to the counter affidavit filed in W.P.No.32743 of 2014 and that is treated as annexure 3 to this judgment.

On a careful analysis of the entire material brought on record, it emerges that the Government of Andhra Pradesh has acquired vast extents of land lying in several villages of Medak District and erstwhile Hyderabad District for establishing the Air Force Academy. Out of that, only certain extents of land has been securely fenced and the Air Force Academy started carrying on its training and other related activities. Since large tracts of an extent of Ac.1,492-16 gts of land was lying outside the secure fence, so put up by AFA the petitioners and others like them have gained a wrong impression that those lands have not been acquired and hence, they were not fenced by Air Force Academy. The fact remains that the entire extent of land of Ac.1,492-16 gts lying outside the secure fence of AFA also stood acquired long time back and compensation was paid pursuant to the award passed long years ago. The claims made by the petitioners and similarly placed persons concerning the land forming part of this Ac.1492-16 gts is a baseless, invalid and untruthful claim. No question of acquisition of these lands all over again would hence, arise. Consequently, no compensation whatsoever is liable to be paid. The Collector and District Magistrate of Medak at Sanga Reddy, the Collector and District Magistrate, Ranga Reddy and the Collector and District Magistrate, Hyderabad District shall not entertain any claims for payment of compensation in that regard to the lands acquired for establishing the Air Force Academy at Dindigul. The Chief Commissioner of Land Administration, State of Telangana and the Principal Secretary to the Government in the Revenue Department are alone competent to entertain any such claims and process them, in case justifiable material is produced before them and the said information shall be first shared by them with the Defence Estate Office, Secunderabad, the Director, Indian Air Force Academy, Dindigul and the Director, Research Centre, Imarat, Defence Research and Development Organization, Hyderabad. Lest, fraudulent claims will spring up dime a dozen every day and the State Government will be taken for a ride by such tricksters.

The Collector and District Magistrate, Sanga Reddy with whom a sum of Rs.7.20 crores was deposited by the Defence Estate Officer, Secunderabad shall immediately return the said amount to the Defence Estate Officer, Secunderabad, who shall retain with him the said money for a period of three years from the date it was so refunded. During the three year period, if any, information for payment of compensation is received by him from the CCLA and or the Principal Secretary to the Government, State of Telangana, appropriately money can be made available.

After the expiry of the three years period, the money shall be transferred back to the Ministry of Defence and or as per their instructions the same may be utilized.

Since the claims made by the petitioners are found to be untruthful claims, it is only appropriate that each one of them shall pay costs of Rs.1,500/- with the Registrar (Judicial), for which purpose 30 days time is granted. Upon such deposit being made, the costs shall be apportioned in equal measure between the Collector and District Magistrate, Sanga Reddy and the Defence Estate Officer, Secunderabad, to defray a small portion of the expenditure incurred by them in resisting these cases.

Accordingly, all these four writ petitions stand dismissed with costs to the extent indicated supra.

Consequently, miscellaneous applications pending shall also stand dismissed.

Registry is directed to communicate a copy of the order to

- 1. Principal Secretary, Revenue Department, Secretariat, State of Telangana.
- 2. Chief Commissioner of Land Administration (CCLA), State of Telangana
- 3. The Collector and District Magistrate of Medak at Sanga Reddy,
- 4. The Collector and District Magistrate, Ranga Reddy
- 5. The Collector and District Magistrate, Hyderabad District

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III	Sanction of the President to transfer the management of Air Force Land to DRDO for setting up of ORANGE project at AFA Dundigal, Hyderabad dated 14.11.2008.	32
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JUSTICE NOOTY RAMAMOHANA RAO

31.03.2015

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