

THE HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

WRIT PETITION No.36424 of 2015

ORDER:

In this writ petition, the petitioner, whose land was already acquired by the Government, questions the action of respondent Nos.2 and 3 in trying to dispossess him from Ac.4.07 guntas out of Sy.No.33 of Burahanpuram, Khammam Urban Mandal of Khammam District on the ground that the said land is being attempted to be allotted to third parties by nomination basis without following the due procedure.

2. Petitioner has stated in the affidavit that the aforesaid land was acquired by the Government from his father in the year 1976 for the purpose of digging and structuring NSP canal. The Government issued G.O.Ms.No.628, dated 19.5.1975, and also Memo, dated 10.3.1993, permitting the Chief Engineer, Nagarjuna Sagar Project to hand over the remaining surplus lands to the original land owners subject to collection of compensation paid by the Government with interest at 12% per annum. The father of the petitioner paid the compensation together with interest and the said amount is still lying with the Government. Thereafter, as no action was taken, his father filed W.P.No.5902 of 1996 and the same was allowed with costs in their favour on 2.9.1997. However, the said order was appealed by the Government vide W.A.No.1333 of 1997. A Division Bench of this Court, by order, dated 22.11.2001, allowed the appeal by setting aside the order of the learned Single Judge in W.P.No.5902 of 1996. The petitioner states in this writ petition that the land remained unutilised even now and attempts are being made to alienate the said land to third parties without following the due procedure. He also pleaded that part of the unutilised acquired land was already re-conveyed to other cultivators and to that extent, he filed the present writ petition seeking re-conveyance and also questioning the attempt of respondent Nos.2 and 3 for allotting the said land to third parties.

3. On the previous occasion, when the writ petition came up for admission, since the prayer of the petitioner to the extent of re-conveyance is found to be contrary to the legal provisions declared by several decisions, the learned counsel for the petitioner as well as the learned Government Pleader for Revenue (Telangana) appearing for the respondents sought time to check up the legal position.

4. It transpires today that the relief as to re-conveyance cannot be granted in view of the decisions of the Supreme Court in **Tamilnadu Housing Board v. L.Chandrasekaran (Dead) by LRs. and others** and **V. Chandrasekaran v. Administrative Officer**, which has been followed by this Court in **Surada Tata Rao v. Collector & District Magistrate, Visakhapatnam and others**, as well as **Topara Rajender and others v. Government of Andhra Pradesh and others**. In view of the same, as the relief for re-conveyance in favour of the petitioner is being squarely impermissible, the same cannot be granted.

5. To the extent of the contention of discrimination also, it is apparent that the Government has re-conveyed the land contrary to law in favour of some ryots. A direction cannot be issued to the Government to repeat the said mistake in the case of petitioner also and negative discrimination cannot be taken note and enforced by this Court.

6. Even otherwise, the said land is not yet allotted to any third party and as such, the petitioner's apprehension that it is being allotted to third parties contrary to law also cannot be taken cognizance of. If any such allotment or nomination with regard to the land aforesaid takes place, petitioner is at liberty to question the same in accordance with law. Hence, at this stage, no direction sought for by the petitioner can be issued.

7. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

8. Miscellaneous petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE VILAS V.AFZULPURKAR

Date: 09.11.2015

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