

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

WRIT PETITION NOs.22601 AND 30993 OF 2014,
32403 OF 2015, 8376 OF 2018
AND CONTEMPT CASE NO.678 OF 2015

COMMON ORDER:

All these batch of Writ Petitions pertain to the very same subject property and are filed at different stages on different cause of actions. As the facts in issue are common for all the Writ Petitions, the same are clubbed and heard together and they are, accordingly, disposed of by this common order.

2. Heard Mr. Vedula Venkata Ramana, learned Senior Counsel appearing for the petitioners and Mr. B.S.Prasad, learned Advocate General for the respondents. As the parties to all the Writ Petitions are almost same, they are referred as per the array of cause title in W.P.No.22601 of 2014 for convenience.

3. The brief facts that are undisputed and relevant for disposal of these Writ Petitions are as under:

The erstwhile Government of Andhra Pradesh had taken a policy decision to encourage the functioning of newspaper concerns and educational institutions in the State and in the said process, the then Government of Andhra Pradesh issued

G.O.Ms.Nos.1096, 1098 and 1099 dated 31.10.1994 allotting the land to an extent of Acs.2.00 gts each in Survey No.403 correlated to T.S.No.2, Block-F, Ward-9 and T.S.No.9, Block-F of Shaikpet Village, Golconda Mandal, Hyderabad District, on payment of land value at the rate of Rs.200/- per square yard in favour of the petitioners 1 to 3 herein, for the purpose of establishing newspaper concerned. Along with the petitioners, two other institutions, namely M/s. DOT Publishers and M/s.Roots Educational Society Private Limited were also allotted equal extent of land for the purpose of establishing newspaper concern and a school respectively. The petitioners herein, in terms of the price fixed under the above G.Os., have deposited an amount of Rs.19,36,000/- each with the respondents on 29.11.1994. However, the possession of the subject land was not handed over to the petitioners herein but on the contrary, the possession was handed over to the other two institutions i.e. M/s. DOT Publishers and Roots Educational Society Private Limited (hereinafter referred to as "the other two entities"), though the said two entities have not paid the amounts by that date. At that stage, having been aggrieved by the action of the respondent-State in not handing over the possession of the respective allotted land to the petitioners herein, the petitioners

filed W.P.Nos.3376, 3384 and 4637 of 1996 and the said Writ Petitions were allowed by a learned Single Judge of this Court by order, dated 01.04.1998 and the Writ Appeals filed thereagainst vide W.A.Nos.1715, 1716 and 1720 of 1998 by the State were dismissed by a Division Bench of this Court by an order, dated 08.05.2001. During the pendency of the said Writ Appeals, the Government issued G.O.Ms.No.38 Revenue (Assignment-III) Department dated 16.01.2001 cancelling the three G.Os. through which the allotment was made in favour of the petitioners herein on the ground that the area in question was earmarked for residential purpose and that the price stipulated in the respective G.Os. was ridiculously low. Thereupon, Contempt Case Nos.114, 115 and 116 of 2001 were filed against the action of the respondents in issuing G.O.Ms.No.38 dated 16.01.2001. The learned Division Bench, while disposing of the Writ Appeals and Contempt Cases cancelled G.O.Ms.No.38 dated 16.01.2001 and confirmed the orders passed by the learned Single Judge and closed the Contempt Cases. Aggrieved by the orders, dated 08.05.2001 passed by the learned Division Bench, the respondent-State filed Civil Appeal Nos.7152 to 7157 of 2002 and the said Civil Appeals came to be dismissed by an order dated 01.11.2002

and all the contentions raised by the respondent-State, be it with regard to the value of the land, the nature of the land, being an area earmarked for residential area etc., were rejected by the Hon'ble Apex Court taking into consideration the fact that the allotment of land made in favour of the other two entities are not cancelled and they were allowed to set up the printing press and school respectively by permitting conversion of land use. Thus, the Hon'ble Apex Court found discrimination among the equals and dismissed the Civil Appeals filed by the State and also observed as under:-

“The contention that Zoning Regulations were likely to be violated by assigning and delivering possession of the land in favour of the writ petitioners, also has no substance. As rightly pointed out by the High Court, Zoning Regulations can always be relaxed, if necessary. In any event, if the other assignees were permitted to carry on the same business in the same area, it could hardly be contended that the Zoning Regulations were likely to be violated only in the case of original three writ petitioners. The contention that the value of Rs.200/- per sq.yard is far too less as compared to the market price, is also of no avail. The value of the land was fixed on a report made by the collector after due enquiry and, presumably, reflects the prevalent price in the year 1994. Merely because the land prices may have risen subsequently, after laying out the plots in the adjoining area and the provision of amenities the assignments, the assignments could not have been cancelled. **Article 14 guarantees equal treatment to persons who are equally situated. That the three writ petitioners were situated equally as M/s. DOT Publishers and Roots Public School, is beyond cavil. The High Court was therefore right in taking the view that there was infringement of Article 14.**”

4. Thereafter, the Government, having accepted the judgment of the Hon'ble Apex Court dated 01.11.2002, issued G.O.Ms.Nos.482, 483 and 484 dated 20.07.2004 allotting the

very same land to the petitioners 1 to 3 herein respectively and the second respondent was directed to hand over the possession of the respective land to the petitioners herein. The possession of the land was handed over to the petitioners on 02.08.2004. Thereafter, the petitioners approached the Municipal Corporation of Hyderabad requesting for grant of permission for construction of a building for the purpose of establishing printing press and the said request of the petitioners was rejected by the Municipal Corporation on the ground that the petitioners have not submitted the registered documents, as required under Section 429 of the Greater Hyderabad Municipal Corporation Act, 1955 evidencing the title over the respective lands besides certain other objections.

5. At that stage, the respondent-State issued memo No.14116/Assn.III/1/96 dated 01.09.2007 directing the second respondent to resume the land allotted to the petitioners and others for violating the conditions under G.O.Ms.Nos.482, 483 and 484 dated 20.07.2004. Aggrieved thereby, the petitioners herein jointly filed W.P.No.4905 of 2008 and the same was allowed by a learned Single Judge of this Court by an order dated 17.07.2012 on the ground of violation of principles of natural justice and gave liberty to the State to pass orders

afresh. Thereupon the respondent-State issued G.O.Ms.No.577 Revenue (Assignment-III Department) dated 27.11.2013 directing the second respondent to issue final notice giving six months' time to the petitioners to get all the clearances and to start the work with reference to the object for which the land was allotted to them without any deviations and to show the progress. Failing which it was further directed that the second respondent may resume back the land if the same is not put to use for which it is meant.

6. At that stage, the second respondent addressed letters dated 22.04.2014 to the petitioners herein separately while enclosing a draft deed of allotment for registering the same in favour of the petitioners and requiring the petitioners to give their consent and further informed the petitioners that the said conveyance deed cannot be executed immediately as the model Code of Conduct due to General Elections was in operation and if the conditions were agreed, the deed will be executed after the model Code of Conduct comes to an end. In response thereto, the petitioners gave their consent for the draft conveyance deed through letters, dated 28.04.2014.

7. At that stage, the petitioners, having realised that the condition imposed in the said G.O.Ms.No.577 dated 27.11.2013

cannot be complied with for want of clearances from various departments of the Government, submitted separate representations dated 25.02.2014 requesting for extension for a further period of six more months. The said request of the petitioners was rejected by the respondent-Government through letter No.9362/Assn.III/1/2014-1 dated 17.04.2014. Aggrieved thereby, the petitioner herein filed W.P.No.22601 of 2014.

8. During pendency of the said Writ Petition, the respondents required the petitioners to show cause as to why the land allotted to the petitioners should not be resumed. Aggrieved by such notices, the petitioners approached this Court by jointly filing W.P.No.32403 of 2015 and this Court by an order dated 05.10.2015 stayed the further proceedings in pursuance of the said impugned show cause notices. In the meanwhile, the request made by the petitioners for change of land use from residential use and open space use to commercial use in respect of the land allotted to the petitioners was rejected by the Government by issuing Lr.No.182298/11/2012-5 dated 15.09.2014 on the ground that the change of land use from residential and open space use to general commercial use would spoil the residential nature of locality and the tranquillity of the surrounding areas. Aggrieved by such rejection order, the

petitioners once again approached this Court by jointly filing W.P.No.30993 of 2014. While the above matters were pending before this Court, when there was interference with the possession of the respective petitioners by the respondents, the petitioners filed W.P.No.8376 of 2018 seeking a direction not to interfere with the possession and enjoyment of the petitioners over their respective allotted land.

9. Mr. Vedula Venkata Ramana, learned Senior Counsel, contended that the entitlement of the petitioners for allotment of the subject land at the rate of Acs.2.00 gts each is already adjudicated by this Court, as confirmed by the Hon'ble Apex Court in the Civil Appeals and inter se parties the issue has become final including the entitlement of the petitioners to seek conversion of land use and for their entitlement of all the benefits or concessions that were extended in favour of the other two entities and under no circumstances the Government is entitled to resume back the land that is allotted to the petitioners herein. He further contended that the allotment that is made in favour of the petitioners is to be construed as a grant under Government Grants Act, 1895 and further contended that the allotment made in favour of the petitioners is not a conditional allotment either with reference to any period within

which the land should be put to use or otherwise except for putting the use of the land for the purpose for which it is allotted. He also placed strong reliance on the order passed by the Hon'ble Apex Court in Civil Appeal Nos.7152 to 7157 of 2002 inter se parties and contended that the same operate as *res judicata* and the respondents are not entitled to resume back the land from the petitioners or subject the allotment any further conditions the allotment under original three G.Os. is still in force, and further contended that all the grounds raised by the respondents in the counter affidavit are not available to them as the same were already rejected by the Hon'ble Apex Court.

10. On the other hand, learned Advocate General contended that in terms of G.O.Ms.No.577 dated 27.11.2013, the petitioners were granted six months' time for obtaining all the clearances and to start the work relating to the purpose for which the land was allotted to them but the petitioners failed to comply with the said condition and hence, they are not entitled for any extension of time and the request of petitioners for extension of time was rightly rejected by the Government through the impugned order in W.P.No.22601 of 2014. He also placed strong reliance on the judgments of the Hon'ble Apex

Court in **Dalip Singh v. State of Haryana**¹ and **A.P. Industrial Infrastructural Corpn. Ltd. v. Shivani Engg. Industries**² and contended that once the land is allotted for a specific purpose subject to terms and conditions, the same should be complied with and that the refusal of request for extension of time by the Government cannot be a subject matter of judicial review as the petitioners failed to comply with the conditions imposed by the Government. He also further contended that the petitioners cannot claim any equity on par with the other two entities, as the State is being deprived of huge largessy which otherwise can be utilised for other public purposes. Learned Advocate General also further contended that one Mr. Rama Krishna Reddy happens to be Director in all the three petitioner companies and there is some suspicion in the entire transaction and the petitioners have fraudulently obtained the allotment in their favour and as such, the petitioners are not entitled for any relief in these Writ Petitions.

11. In the light of the arguments advanced on either side and after perusing the entire material on record especially the order of the Hon'ble Apex Court inter se parties in Civil Appeal Nos. Civil Appeal Nos.7152 to 7157 of 2002 dated 01.11.2002, the

¹ (2019) 11 SCC 422

² (2015) 7 SCC 241

points that arise for consideration in this batch of Writ Petitions are as under:-

(i) Whether the allotment of land made in favour of the petitioners under G.O.Ms.Nos.1096, 1098 and 1099 dated 31.10.1994 are in force and binding on respondent-State?

(ii) Whether the respondent-Government is entitled to resume the land allotted in favour of the petitioners under the said G.Os. while allowing the other two entities to continue to enjoy the land allotted to them?

(iii) Whether the Government having allotted the land unconditionally (except the purpose for which the land should be used) is entitled to subject the allotment to various other conditions at a later point of time?

(iv) Whether the Government after having received the consideration without executing a proper conveyance deed is entitled to cancel the allotment on the ground that the petitioners failed to put the land allotted to them for the purpose for which it is allotted?

(v) Whether the respondent-Government is justified in refusing to convert the land use from residential and open space to general commercial use in the light of the fact that the land

used is allowed in the very same vicinity in favour of the other two entities?

(vi) Whether the respondents are entitled to interfere with the possession and enjoyment of the petitioners over their respective extents of land allotted to them?

As all the parties are interlinked, the same are considered together.

12. From the order passed by the Hon'ble Apex Court inter se parties in Civil Appeal Nos.7152 to 7157 of 2002 dated 01.11.2002 reported in **Government of Andhra Pradesh v. Maharshi Publishers Pvt. Ltd.**³, the issues with regard to price at which the land was allotted and the entitlement of the petitioners to seek conversion of the land used from residential and open space to the commercial use etc. are concluded and either of the parties are entitled to reopen the issues that were already finalised in the judgment of the Hon'ble Apex Court. At this stage, it is necessary to take note of the finding of the Hon'ble Apex Court, which reads as under:-

“Article 14 guarantees equal treatment to persons who are equally situated. That the three writ petitioners were situated equally as M/s. DOT Publishers and Roots Public School, is beyond cavil. The High Court was therefore right in taking the view that there was infringement of Article 14.”

³ (2003) 1 SCC 95

Any attempt made by the respondents to tinker with such findings rendered by the Hon'ble Apex Court cannot be countenanced. By virtue of the order passed by the learned Single Judge in W.P.Nos.3376, 3384 and 4637 of 1996 dated 01.04.1998 and the order passed by the Division Bench of this Court in W.A.Nos.1715, 1716 and 1720 of 1998 dated 08.05.2001 and the orders passed in Contempt Case Nos.114, 115 and 116 of 2001, the possession of the plots were directed to be delivered to the respective petitioners while setting aside G.O.Ms.No.38, dated 16.01.2001 and the said judgment was confirmed by the Hon'ble Apex Court. In the light of setting aside of G.O.Ms.No.38 dated 16.01.2001, the original allotment order in G.O.Ms.Nos.1096, 1098 and 1099 stood restored and though there was no necessity for the respondent-Government to issue fresh G.Os. allotting the land once again to the petitioners, respondent-Government issued G.O.Ms.Nos.482, 483 and 484 allotting the land once again in favour of the petitioners herein. Either in the first set of G.Os. or in the second set of G.Os., there were any conditions imposed except with regard to usage of the said land allotted in favour of the petitioners. Further, there was no timeline fixed in any of the G.Os. under which the allotment took place. But for the

reasons best known, even after prolonged litigation up to the Hon'ble Apex Court and after losing a battle, the respondent-Government continued its efforts to deprive the petitioners of the benefit of allotment in respect of which consideration was deposited as early as on 29.11.1994 resulting in forcing the petitioner to approach this Court again and again. Ultimately, the Government issued G.O.Ms.No.577 dated 27.11.2013 for the first time imposing the condition of obtaining all the clearances and to start the work within a period of six (6) months and threatened to resume back the land, if such a condition is not complied with.

13. At this stage, it is necessary to notice that the Government, having issued G.Os., allotting the land in favour of the petitioners and having received the consideration for such allotment as early as in the year 1994, failed to hand over possession of the respective land to the petitioners till the petitioners approached this Court and this Court issued a Writ of Mandamus, which was confirmed by the Hon'ble Apex Court on 01.11.2002. Even thereafter, it is only on 02.08.2004 i.e. after a lapse of almost two years, the possession of the subject land was handed over to the petitioners. Even after handing over possession to the petitioners, the respondents failed to

execute proper conveyance deed in favour of the petitioners for another decade and it is only on 22.04.2014, the second respondent for the first time addressed a letter to the petitioners seeking their consent for the draft deed of allotment and immediately thereafter the petitioners expressed their willingness in the draft deed of allotment and communicated the same to the second respondent through their letter dated 28.04.2014 i.e. within a period of six days. Even thereafter, no deed of allotment is executed in favour of the petitioners due to model Code of Conduct due to General Elections and thereafter. Instead of conveying the property once again the respondents have initiated the proceedings by issuing show cause notice dated 22.09.2015 to show cause as to why the land should not be resumed back. Thus, at every stage, the conduct of the respondents is to see that by hook or crook to cancel the allotment made in favour of the petitioners and to resume back the land and prevented the petitioners from commencing construction for the purpose for which the land was allotted to the petitioners. As already noted above, the allotment that was made in favour of the petitioners under the initial G.Os. of the year 1994 have attained finality by virtue of the judgment of the Hon'ble Apex Court and the said allotment is not subject to any

conditions either with regard to timeline or otherwise and in the absence of any such terms and conditions in allotting the land to the petitioners, the Government cannot be permitted to resume back the land on the ground of violation of conditions. Any such lenience or scope given to the respondents to deprive the petitioners of the benefit of the G.Os. under which the land was allotted and benefit of the order passed by this Court, as confirmed by the Hon'ble Apex Court, would amount to a situation of lawlessness and arbitrary action.

14. The judgments of the Hon'ble Apex Court relied upon by the learned Advocate General in the cases **Dalip Singh v. State of Haryana** and **A.P. Industrial Infrastructural Corpn. Ltd. v. Shivani Engg. Industries** (1 and 2 supra) have no application to the facts on hand as the said judgments pertain to the allotment of land subject to certain terms and conditions mentioned in the respective allotment orders. In the instant case, it is not the case.

15. As already noted above, the request of the petitioners for grant of construction permission was rejected by the Municipal Corporation of Hyderabad on 05.07.2005 for want of registered conveyance deed in favour of the petitioners in respect of the land allotted in their favour. Admittedly, no conveyance deed is

executed by the respondent-Government in favour of the petitioners as on date and an attempt to execute such document was made for the first time only in the year 2014 i.e. after a lapse of a decade since the date of allotment. In the absence of proper conveyance deed, the petitioners could not obtain the required permissions from the statutory authorities and the respondent-State is responsible for such situation. The respondent having disabled the petitioners from obtaining necessary permissions and to commence the work has arbitrarily proposed to cancel the allotments on the ground that the petitioners failed to commence the work by obtaining necessary clearances within the time stipulated under G.O.Ms.No.572. Therefore, the contention of the respondents in their counter-affidavit that even if the six months' time, as sought for in W.P.No.22601 of 2014 is granted also the same has worked out by lapse of time and no purpose would be served cannot be accepted.

16. The other allegation that all the three petitioner companies are being managed by single person and that the affidavit filed in support of the Writ Petition is also being signed by only one person on behalf of all the three petitioners etc., are all appears to have been made only to cover up the lapses on

the part of the respondents. It is not the ground on which the respondents refused to extend the time or proposed to resume back the land in favour of the Government. For the first time, the respondents have put forth such pleas alleging fraud before this Court without there being any material on record. Mere allegation of fraud basing upon some suspicion leads nowhere. Any allegation of fraud is required to be pleaded and proved with proper evidence. In the absence of the same, such bald allegations cannot be entertained by this Court. Even assuming that the single person is representing before this Court on behalf of all petitioners can be a ground to suspect the bona fides of the petitioners as the cause of action and the fact situation is same to all the petitioners herein, there is nothing wrong if the petitioners herein joining together for fighting the litigation against the respondent-State. It is unfortunate that the State having lost the battle till the Apex Court is putting forth such frivolous and unsustainable grounds to deprive the petitioners of the fruits of the order passed by the Hon'ble Apex Court.

17. The other allegations with regard to the activities of the petitioners' companies in not publishing any newspaper etc., are also totally irrelevant and the right of the Government to insist

for publication of newspapers etc. in order to achieve the object for which the land is allotted in favour of the petitioners would arise only after proper conveyance is made in favour of the petitioners and the petitioners are allowed to set up the respective establishments. The respondent-State having put hurdles at every stage and after having received the entire sale consideration as early as in the year 1994 delivered possession of the subject property in the year 2004 and failed to execute proper conveyance deed as on date. Hence, under no circumstances, the respondent-Government can be permitted to raise all such frivolous grounds at this stage. No doubt, in case if the petitioners fail to comply with the requirement of putting the subject land for the purpose for which it was allotted in favour of the petitioners after the respondent-State Government complied with all its obligations including executing proper conveyance deed etc., it is always open for the respondent-Government to compel the petitioners to comply with such obligations in accordance with law.

18. In the light of the above, point No.(i) is answered in positive and G.O.Ms.Nos.1096, 1098 and 1099 Revenue (Assignment) Dated 31.10.1994 are in force and the same is binding on the respondent-State. Point No.(ii) is answered in

negative declaring that the respondent-State is not entitled to resume the land back and any such attempt by the respondent-State while allowing the other two entities to continue to enjoy the land allotted to them is arbitrary and violative of Article 14 of the Constitution of India. Point No.(iii) is answered in negative declaring that the Government is not entitled to put additional terms and conditions other than the conditions imposed in original allotment Government Orders vide G.O.Nos.1096, 1098 and 1099 dated 31.10.1994. Point No.(iv) is also answered in the negative declaring that the respondent-State is not entitled to cancel the allotment orders after having received entire consideration on the ground that the petitioners failed to put the land for use for which it is allotted. Point No.(v) is also answered in negative declaring that the petitioners herein are also entitled for conversion of land used in the same lines under which the other two entities were granted conversion of land use. So also point No.(vi) is answered in negative declaring that the respondents are not entitled to interfere with the possession and enjoyment of the petitioners over their respective extents of land allotted to them.

19. Having taken note of the contentions and unabated attempts made by the respondent-State to deprive the

petitioners of the benefits of the order passed by the Hon'ble Apex Court dated 01.11.2002 and also taking into consideration the delay that had occurred since the year 1994 in the matter of executing proper conveyance deed in favour of the petitioners, these Writ Petitions are allowed and the impugned order in W.P.No.22601 of 2014 and the impugned show cause notices in W.P.No.32403 of 2015 are set aside with the following directions:-

- (1) The respondents are directed to take immediate steps for execution and registration of proper conveyance deed in favour of the petitioners 1 to 3 in respect of the respective allotted lands and complete the same within a period of two (2) months from the date of receipt of a copy of this order.
- (2) The impugned order in W.P.No.30993 of 2014 i.e., 182298112012-5 dated 15.09.2014 is set aside and the matter is remanded back to the respondents for considering the request of the petitioners afresh on par with the other two entities i.e. M/s. DOT Publishers and Roots Educational Society Private Limited and extend the benefits that are extended to the said two entities in the light of the order of the Hon'ble Apex Court in Civil Appeal

Nos.7152 to 7157 of 2002 dated 01.11.2002 within a period of three (3) months from the date of receipt of a copy of this order.

(3) The respondents are further directed not to interfere with the possession and enjoyment of the petitioners over their respective allotted lands in any manner.

20. In view of the order in W.P.No.22601 of 2014 and batch, the Contempt Case is closed.

There shall be no order as to costs. Miscellaneous applications, if any, pending shall stand closed.

(MUMMINENI SUDHEER KUMAR, J)

27th January 2023
RRB