

THE HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 18699 OF 2015

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ORDER:

This writ petition is filed by the petitioners seeking writ of mandamus declaring the order Rc.No.4060/2014-D2, dated 04.03.2015 of the Collector, Guntur, and the consequential letter Rc.No.420/2015/DT, dated 19.05.2015 of the Tahasildar Tulluru Mandal, Guntur District and the Endorsement Rc.No.20/2015 (Tahsildar) dated 25.05.2015 of the Special Deputy Collector and Competent Authority, Capital Region Development Authority, Unit No.22, Velagapudi, Tulluru Mandal, Guntur District, in not treating the petitioners' land as Jaribu as illegal and void and consequently to direct the Government of Andhra Pradesh, the 1st respondent, to forthwith examine the issue of Jaribu lands and make necessary provision in this regard in the Rules to treat the petitioners' land as jaribu lands for the purpose of the benefits under Rule 5.2 of Andhra Pradesh Capital City Land Pooling Scheme (Formulation and Implementation) Rules, 2015.

02. Heard the counsel for the petitioner, learned Standing Counsel for the 2nd respondent.

03. The petitioners are the farmers, whose lands are now within the Capital Region Development Area and Surrounding Areas. The State legislature has notified the Andhra Capital Region Development Authority Act, 2015 consequent to publication of notification of the Act, 2014, the competent authority has also notified Rules known as Andhra Pradesh Capital City Land Pooling Scheme (Formulation and Implementation) Rules, 2015.

4. As per the Rules, the agricultural lands are classified depending on the nature of cultivation as wet, dry and Jaribu. The petitioners applied for treating their respective lands as Jaribu to grant them appropriate benefits under the Land Pooling Scheme. The Land Pooling Rules are silent as to which land is called as Jaribu. The District Collector passed orders in Rc.No.4060/2014-D2 on 04.03.2015 prescribing the parameters for classifying the particular land as Jaribu. Consequent to the order passed by the District Collector, dated 04.03.2015, the concerned Tahasildar

passed orders informing the petitioners that their respective lands cannot be classified as Jaribu. The orders of the District Collector and the consequential proceedings of the Tahasildar are under challenge in the writ petition.

5. The challenge in this writ petition is on the ground that, when once the land is described as Jaribu, the District Collector, has no competency to classify particular land as Jaribu or prescribed parameters, for describing a land as Jaribu and such action of the respondents is ex facie illegal.

6. Earlier the writ petition was adjourned to enable the learned Standing Counsel to obtain proper instructions.

7. Learned Standing Counsel for respondents 2 and 4 produced Orders of the Government issued in G.O. Ms. No.185 Municipal Administration and Urban Development (M2) Department, dated 25.08.2015. Through the G.O., notification was issued amending Rule 3(1) of the Rules, and sub Rule (i) is added, which now explains what is meant by 'Jaribu land'.

8. It is clear that prior to the said amendment Rules have not defined Jaribu land. Rules did not vest power in the District Collector to classify a particular agricultural land as 'Jaribu' or to fix parameters of such classification. Thus, the proceedings issued by the District Collector through Rc.No.4060/2014-D2 on 04.03.2015 was ex facie without competence. Consequently, the orders of the Tahasildar in proceedings Rc.No.420/2015/DT, dated 19.05.2015, is not valid in the eye of law and are liable to be set aside. Accordingly, the proceedings of the District Collector and consequential proceedings of the Tahasildar are set aside.

9. Accordingly, the writ petition is allowed. However, it is made clear that since Rules are now amended, it is open to the Government or any other competent authority as authorised/ specified to take appropriate action as warranted by law as a consequent to amendment carried out to Rules vide G.O. Ms. No.185 dated 25.08.2015. It is always open to the petitioners to work out their remedies if they are aggrieved by the notification issued by the Government amending Rules and consequential action taken by the competent authority. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P. NAVEEN RAO, J

22.09.2015

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