THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.26630 of 2009

Dated : 08.04.2015

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Between:

Siddamsetti Pentaiah S/o.Late Siddamsetti Narayana

(died) per L.Rs., 7 to 11,

Aged 58 yrs, Occu : Agriculture & Business,

R/o.Goleti Township, Bhagathsingh Nagar,

Goleti Rebbena Mandal, Adilabad District

(L.R. of Siddamsetti Narayana) & others

.. Petitioners

And

State of Telangana,

Rep., by its Principal Secretary, Revenue Department,

Secretariat, Hyderabad & others

.. Respondents

This Court made the following :

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ORDER :

The petitioners claim to be non-tribals and their ancestors have purchased several extents of land mentioned in Para 3 of the affidavit filed in support of the writ petition by way of simple Sale Deeds in Chirrakunta Village, Asifabad Mandal, Adilabad District prior to 1951. It is also their case that Khasra Pahani for the year 1954-55 indicates the names of the ancestors and in other revenue records as pattedars and possessors. Chirrakunta Village is notified as a scheduled village.

2. The Joint Collector, Adilabad District-3rd respondent issued show cause notices in exercise of power under Section 166-B of Andhra Pradesh (Telangana

Area) Land Revenue Act 1317 Fasli (for short 'the Land Revenue Act') alleging violation of Rule 9(1) of A.P.(Telangana Area) Land Revenue Rules 1951. The 3rd respondent passed orders on 30.05.1988 setting aside the transfers made in favour of ancestors and ordered for resumption of the land in favour of successors of original tribal owners.

3. Aggrieved thereby appeal was filed before the Chief Commissioner of Land Administration, Nampalli, Hyderabad-2nd respondent, under Section 158 of the Land Revenue Act. The said appeal was dismissed by order dated 27.04.1989. Challenging the order of the 3rd respondent as affirmed by the 2nd respondent, W.P.No.8629 of 1989 is instituted. The said writ petition was heard and disposed of by the Division Bench of this Court on 29.01.1997. The Division Bench quashed the orders under challenge while granting liberty to the Mandal Revenue Officer, to hold fresh enquiry if he so desires and pass appropriate orders.

4. Alleging that inspite of setting aside the orders of the 2nd & 3rd respondents, possession is not restored to the petitioners, this writ petition is instituted.

5. Sri V. Ravi Kiran Rao, learned counsel appearing for the petitioners contends that the purchase was made much prior to coming into force of the AP Scheduled Area Land Transfer Regulations, 1959. Earlier there was no prohibition of transfer of alienation by the tribal to non-tribal and therefore, the transaction was valid and property was validly vested in the ancestors of the petitioners. Learned counsel further contends that the consequential action of the respondent authorities in nullifying the said transaction and ordering for vesting of possession in the successors of the tribal owners who sold the property to the ancestors of the petitioners is *ex-facie* illegal.

6. Learned counsel further contends that the orders of the 3rd respondent as affirmed by the 2nd respondent was set aside by this Court on the ground that the authorities who have passed orders should have noticed that the Act is not applicable to the facts and circumstances of the case and failure to look into the legal position, caused confusion to both parties. However liberty was granted to the Mandal Revenue Officer, to hold fresh enquiry if he so desires. Thus, until and unless orders are passed by the Mandal Revenue Officer, in fresh proceedings, the

possession ought to have been restored to the petitioners and not restoring the possession to the petitioners is *ex-facie* illegal and amounts to arbitrary exercise of power by the authorities concerned.

7. Learned Assistant Government Pleader submits that in pursuant to the orders of this Court in W.P.No.8629 of 1989, a notice was issued calling upon the petitioners to submit explanations as to why the sale transactions should not be nullified and the property should be vested in the local tribal and the petitioners submitted their explanation. Learned Assistant Government Pleader further submits that on 28.11.1997 enquiry was conducted wherein the petitioners have participated but no orders are passed.

8. This Court in W.P.No.8629 of 1989 set aside the earlier orders of the 3rd respondent as well as the 2nd respondent. Therefore, the transactions undertaken by the predecessors of the petitioners are valid till further orders are passed by observing due process of law. No explanation is forthcoming as to why so far no orders are passed by the Mandal Revenue Officer when personal hearing was held as early as in the year 1997 i.e., even after 18 years from the date of holding of personal hearing, orders are not passed and possession was also not restored to the petitioners.

9. However as on today, since possession is not restored and consequence to liberty granted by Division Bench of this court enquiry was already initiated, at this stage no direction for restoring of possession can be granted.

10. Learned counsel for the petitioners right in contending that having regard to the long time gap, petitioners be given further opportunity by the Mandal Revenue Officer before concluding the proceedings and passing final orders.

11. Having regard to the same, the Tahsildar, Asifabad, Adilabad District (5th respondent), is directed to cause fresh notice on petitioners as well as party respondents indicating the date of hearing, hold fresh hearing, provide opportunity of personal hearing to both parties. The petitioners as well as party respondents shall also be accorded opportunity of presenting the documents in their possession. After considering the said documents, and after according due opportunity to all the parties, appropriate orders shall be passed by the 5th respondent in accordance with law. Having regard to the fact that this is an old issue pending for long time, the

entire exercise shall be completed within the fixed time frame by duly indicating the dates by which the petitioners as well as the party respondents should submit relevant documents in support of their claim and written submissions and the date of hearing. The entire exercise shall be completed within a period of three (3) months from the date of receipt of copy of this order.

12. With the above directions, the writ petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

___________________ **P.NAVEEN RAO,J**

8th April, 2015

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