

*** THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**

+ WRIT PETITION No.1077 of 2015

% Dated 23.06.2015

Vykunta Veera Anjaneyulu

... PETITIONERS

VERSUS

**\$ The State of Andhra Pradesh,
Rep. by its Secretary, Endowments Department,
Secretariat, Hyderabad and others.**

...RESPONDENTS

! Counsel for the Petitioner: MR.M.Madhava Reddy

**^ Counsel for the Respondents: The Government Pleader for
Endowments and
Government Pleader for
Revenue.**

>HEAD NOTE:

? Cases referred

[1] (1996) 3 Supreme Court Cases 75

The Court made the following:

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.1077 OF 2015

ORDER :

This writ petition is filed seeking writ of mandamus declaring the action of the respondent No.2 vide proceeding in Rc.No. DP2/27164/2013, dated 15.01.2014 and subsequent action in invoking Section 22 (A) (1) (c) of the Registration Act vide letter No.N2/10868/2014-1, dated nil-5-2014 and proceedings Rc.No.A5/2088/2013, dated 06.09.2014 as illegal and arbitrary.

2. The petitioner states that he has purchased the land to an extent of Ac.0.55 cents in Sy.No.484/Part of Throvagunta village, Ongole Mandal and District through registered sale deed dated 13.03.2014 from B.Venkateshwar Rao, who in turn purchased from original owners namely Manduva Nageshwar Rao and others. The said Manduva Nageshwar Rao and others inherited the said property from their father Mandava Ramachandraiah, S/o.Bangaraiah. The Sy.No.484 is comprised of a large extent of land admeasuring Ac.8.16 cents, which is a patta land as per 10(1) Adangals and the ROR issued by the Revenue Authorities. When the vendor of the petitioner wanted to sell a piece of land to one P.Narendra Kumar in the year 2012 and presented for registration, the registering authority refused to register the document stating that the said land in Sy.No.484 of Throvagunta village admeasuring Ac.8.16 cents is classified as Trustee for the time being of 'Charitable Pond' and was donated by Sri Konduri Rangachary for the development of the pond, which is adjacent to the said land. Aggrieved by the same, the said P.Narendra Kumar filed W.P.No.32162 of 2012, which was allowed by this Court on 16.10.2012 holding that the land under the said transaction is a private patta land, as per the Pattadar Pass Book issued to the vendor and also as per 10(1) Adangal issued by the Revenue Authorities. That the vendor of the petitioner and others applied for conversion of the said land for non-agricultural purpose to the competent authority under the provisions of the NALA Act, the competent authority vide proceedings dated 21.11.2013 in proceedings No.D.Dis.No.D1/753/2013 converted the entire extent of land in Sy.No.484 admeasuring Ac.8.16 cents of Throvagunta village for non-agricultural purpose. The 2nd and 3rd respondents have taken steps to include the entire extent of land i.e., an extent of Ac.8.16 cents in Sy.No.484 of Throvagunta Village in the list of charitable institutions purportedly exercising their powers under Section 6 (c) of the A.P.Charitable and Hindu Religious Institutions & Endowments Act, 1987 (for short 'the Act') and that the 2nd respondent vide

proceedings dated 15.01.2014 published the Dharmakunta under Section 6 (i) of the Act 30 of 1987 and based on the same, the 3rd respondent instructed the 4th respondent not to entertain registrations over land in Sy.No.484 of Throvagunta village. Aggrieved by the same, the present writ petition is filed.

3. The 3rd respondent-Assistant Commissioner of Endowments Department filed counter affidavit stating that the Commissioner, Endowments, Hyderabad has sent a list of properties belonging to the Endowments Institutions of the District under Section 22 (A) (1) (c) of the Act, to the concerned Sub-Registrar duly informing him not to entertain any document in relation to the properties mentioned in the list. It is further stated that the RSR Copy and District Gazette dated 31.03.1962 clearly discloses that the land in extent of Acs.8.16 cents in Sy.No.484 of Throvagunta village, Ongole Mandal, is an inam to the temple and pertains to the Dharmakunta. The registration of immovable properties shown in the list under Section 22 (A) (1) (c) of the Registration Act are prohibited directly and no notification as contemplated under 22 (A) (1) (c) of the Act is required. The sale deeds produced by the petitioner before this Court are not valid as the same are not with the prior approval of the Commissioner, Endowments Department as required under Section 80 of the Act 30/87. Whether any property is an endowment property or private property is to be resolved under Section 87 of the Act by the A.P.Endowments Tribunal. That the sale of any endowment land is not valid and binding on the temple and did not confer any title on the purchaser of the property and the transaction is null and void and their possession is nothing but encroachment as defined under Section 83 of the Endowments Act 30 of 1987. Therefore, the only remedy open to the petitioner is to approach the Endowment Tribunal under Section 87 of the Act, as held in judgment of Hon'ble Division Bench of this Court in W.A.No.500 of 2012, dated 09.10.2012 as well as order of this Court in W.P.No.26566 of 2011 dated 18.01.2012 and sought for dismissal of the writ petition.

4. Reply to the counter affidavit filed by the 3rd respondent is filed by the petitioner stating that the land in Sy.No.484 of Throvagunta was given as Ryotwari Patta in the year 1962 by Inam Dy. Tahsildar and pattadars were given pattadar pass books and that it was not an Inam to the temple and that there is no temple called 'Dharmakunta' existed then or existing now. When

once the subject land is classified as Ryotwari patta as per the Revenue Records, the question of treating the said land as a land held by the institution would not arise. It is stated that even if the respondents want to exercise su-moto power to treat the land as held by the institution, they cannot exercise the said power after lapse of 50 years of converting the land into Rytwari Patta as held in the judgment of Supreme Court in Civil Appeal No.325-326 of 2015 (**Joint Collector, R.R.District & another v. D.Narsing Rao & others**).

5. Sri M.Madhava Reddy, learned counsel for the petitioner submits that the petitioner has purchased a piece of land in Sy.No.484 of Throvagunta village, Ongole Mandal, Prakasham District and that there was no basis for the 2nd respondent to include the lands in the subject survey number in the list of Charitable institutions prepared under Section 6 (c) of the Act. He contends that when the registering authority refused to register certain lands in Sy.No.484 of Throvagunta village, one P.Narendra Kumar filed W.P.No.32162 of 2012, which was allowed by this Court on 16.10.2012 holding that the land under the said transaction is a private patta land, as per the Pattadar Pass Book issued to the vendor and also as per 10(1) Adangal issued by the Revenue Authorities and that the subject land in this writ petition is part of the Sy.No.484 of Throvagunta village. He therefore, submits that the 2nd respondent cannot issue the impugned proceedings to the registering authorities prohibiting registration of the lands in the subject survey number.

6. Learned counsel for the petitioner further submits that as per the report submitted by the 5th respondent vide proceedings Rc.B/155/2013, dated 01.05.2013, it is stated that the land an extent of Acs.8.16 cents in Sy.No.484 of Throvagunta Village is notified in Form-II under Sub-section (3) of Section 3 of Andhra Inams (Abolition and Conversion into Rytwari) Act, 1956 (Andhra Act XXXVII of 1956) in Guntur District Gazette, dated 12.03.1961 and the names of Manduva Ramaiah and 4 others were recorded against the land in question under Patta No.568. The said proceedings are also referred in the orders passed by this Court in W.P.No.32162 of 2012, dated 16.10.2012, wherein this Court has held that the land to an extent of Acs.8.16 cents in Sy.No.484 of Throvagunta Village is a private land. The said proceedings also refers to the petition filed by one Sri Nalluri Eswara Rao, stating that the land is still 'Dharmakunta' has no basis. He further submits that when once pattas

are granted under A.P (Andhra Area) Inams (Abolition and Conversion into Rytwari) Act, 1956, the grantee becomes absolute owner. The vested rights, therefore, cannot be divested except in accordance with the procedure established by law. In support of his contention he relied on the judgment reported in **Peddinti Venkata Murali Ranganatha Desika Iyengar and others**

v. Government of Andhra Pradesh and another^[1]. He further submits that when once the lands are recorded as patta lands in Revenue Records and after long lapse of time, the same cannot be reversed even by exercising suo-moto powers.

7. On the other hand, learned Government Pleader for Revenue submits that once the 2nd respondent has furnished a list of endowment properties within his jurisdiction, the prohibition contained in Sub Section (1) (c) of Section 22 of the Act gets attracted and that it is not necessary for the State Government to issue any fresh notification. He further submits that if the petitioner is aggrieved of the same, he can avail alternate remedy against impugned proceedings under Section 87 of the Act of 1987. In support of his contention, he relied on the judgments in **The Guntur City House Construction Cooperative Society Ltd., v. The Tahsildar, Guntur Mandal, Taluka Office, Guntur, Guntur District and another (W.P.No.26566 of 2011)**, **Smt. T.Kalpana and another v. The Joint Sub Registrar-1, Kadapa, Kadapa District (W.P.No.27522 of 2010)** and **Manglapuri Pullaiah v. The Sub-Registrar Stamps & Registrations, Sattenapalli, Guntur District and others (W.A.No.683 of 2009)**.

8. Admittedly, the land to an extent of Acs.8.16 cents in Sy.No.484 of Throvagunta Village, Ongole Mandal was the subject land in the writ petition W.P.No.32162 of 2012, wherein this Court has held as under:

“It is the case of the petitioner, that the land in question is a private patta land and his vendor and vendor’s vendor were also issued pattadar passbooks and title deeds and it was recorded as a patta land in the revenue records. He has also filed copies of adangals before this Court. All the records disclose that the said land is a private patta land.

It is to be noted that merely because the land in question was donated long back, it cannot be said that the document in respect of transfer of such land falls within the classified documents prohibiting Registration under Section 22-A of the Registration Act, 1908. When the land is shown as a patta land in the revenue records, the question of treating the said land for the time being as a trust land does not arise. If it is a patta land, it continues to be a patta land for all purposes.”

9. It is the case of the petitioner that when once this Court has held that it is

a private patta land for all purposes, the respondents cannot issue impugned proceedings under Section 22 (A) (1) (c) of the Registration (A.P.Amendment) Act-19/2007. In the counter affidavit filed by the respondent, nothing is stated about the judgment rendered by this Court in W.P.No.32162 of 2012 on merits. When the land was sought to be converted from agriculture to non-agriculture and other purpose, report was furnished by the 5th respondent on 01.05.2013, wherein it is stated as follows:

“5. In this connection, it is submitted that, as per RSR of Throvagunta village the land measuring an extent of Ac.8.16 cents in S.No.484 is classified as “Dharmakunta”. But, the Inams Deputy Tahsildar, Bapatla has notified the said land in Form-II under Sub-section (3) of Section 3 of Andhra Inams (Abolition and Conversion into Rytwari) Act, 1956 (Andhra Act XXXVII of 1956) in Guntur District Gazette, dated 12.03.1961 as follows:

T.D.No.	S.No.	Classification	Extent	Remarks
1	2	3	4	5
568	484	Dry	8.16	Throvagunta village, Ongole Taluk, Guntur District

6. It is further submitted that, as could be seen 10(1) of Throvagunta village, it is noticed that, thenames of Manduva Ramaiah and 4 others were recorded against the land in question under Patta No.568. Meanwhile, Sri Pentala Narendra Kumar S/o.Pentala Venkata Sessaiah, R/o.Santhapeta, Ongole town & mandal has filed W.P.No.32162/2012 against the Sub-Registrar, Ongole and Tahsildar, Ongole and Sri Bapanapalli Venkateswara Rao on the letter bearing No.Rc.B/218/2011, dated 06.07.2011. In this connection, the Hon’ble High Court has issued an order that “all the revenue records disclose that the said land is a private patta land and when the land is show as patta landing revenue records, the question of treating the said land for the time being as a trust does not arise. If it is a patta land, it continues to be a patta land for all purposes and direct the 1st respondent to process document bearing No.P46/2012 presented by the petitioner for registration without reference to letter, dated 06.07.2011 addressed by the 2nd respondent.

7. In the reference 4th cited, the Addl. Revenue Inspector, Ongole has reported that, the land measuring an extent of Ac.8.16 cents in S.No.484 is classified as “Dharmakunta and during the year 1962 Rytwari patta was granted to the said land by the then Inam Deputy Tahsildar, Bapatla and it was notified in Guntur District Gazette. Moreover, the PPBs/TDs were granted to 26 ryots against the said land and hence, it is a patta land. In patta lands no rastas have been showed to all ryots by the Revenue Department. Moreover, the applicant has filed in the Grievance Cell for conversion of land.

8. Keeping in view of the report submitted by the Tahsildar, Ongole in the reference 1st cited and the petition filed by Sri Nalluri Eswara Rao, S/o.Sessaish, resident of Throvagunta village, Ongole Mandal in Collector’s Grievance Cell and basing on the report of the ARI, Ongole, the land measuring an extent of Ac.8.16 cents in S.No.484 of Throvagunta Village is patta land. Hence, the objection raised by the applicant does not consideration.”

In view of the above proceedings, the objection raised by one Nalluri Eswara Rao that it is not a private patta land is also negated. When once the order in W.P.No.32162 of 2012 has become final and the respondents have not taken any action against the same by way of appeal, the order in the said writ petition has attained finality. In the above proceedings, it is clearly stated that the subject land is notified in Form-II under Sub-section (3) of Section 3 of Andhra Inams (Abolition and Conversion into Rytwari) Act, 1956 (Andhra Act XXXVII of 1956) in Guntur District Gazette, dated 12.03.1961 and pattas were also granted.

In **Peddinti Venkata Murali Ranganatha Desika Iyengar and others v. Government of Andhra Pradesh and another (supra)**, the Hon'ble Apex Court, in similar circumstances, has held as follows:

"11. Another Division Bench of the High Court to which one of us (K.Ramaswamy, J.) was a member in *Sri Bhavanaravanaswami Vari Temple v. Chintapudi Rudraiah* [AIR (1986) 1 A.L.T. 444], after exhaustive consideration of the controversy, had held that a conjoint reading of Section 7 and Form VIII and Section 12 would posit that on and from the date of the grant of the ryotwari patta, the inam extinguishes. The grantee becomes absolute owner. He is liable only to pay ryotwari assessment to the Government. No condition has been fastened therein making the grantee render service to the respondents. There is presumptive evidence that the legislature is aware of the pre-existing law and it intended to bring about alteration in the pre-existing liability by putting an end thereto and created new rights under the Act. The Act intended to extinguish the pre-existing vestige of obligation to render service running with the land and relieved the holder of the land from the said obligation. The vested rights, therefore, cannot be divested except in accordance with the procedure established by law. Section 15 gives over-riding effect over the Act though it is inconsistent with any other law or any instrument having force of law by virtue of any such law.

12. The question that arises is: Whether the legislature, by a side-wind, without suitably amending the Inams Abolition Act, as interpreted by the High Court, or repealing it, could directly nullify the said law laid by the Court and divest, under Section 76 of the Act, the vested right and declare that the land was not covered by said ryotwari patta or shall not be transferred or shall be deemed never to have been transferred thereunder and would treat such persons as encroachers? It is seen that the inam Abolition Act is a complete code in itself and gives over-riding effect to any law inconsistent therewith creating vested rights over the former inam lands which ceased to exist on the grant of ryotwari patta. Being a ryoti land held by a tenant, an archaka, a service holder or other employee after grant of ryotwari patta, holds the land with absolute right to the extent of 1/3 land as an independent and absolute owner. The pre-existing relationship, in relation to the land stood terminated and direct relationship with the Government was created by imposition of ryotwari assessment. Section 12 fastens the liability to pay ryotwari settlement to the Government. Thereby, the whole of inam service existing prior to the grant of ryotwari patta ceased to have any statutory effect. The liability to render service ceased. Thereby independently, the service holder became entitled to hold the land in his own right as a holder of land held by him with

absolute right, title and interest in the said land and to enjoy the property with heritable rights or right to alienation, gift over, bequeath etc. The Act did not make any direct attempt to repeal the provisions of the Inams Abolition Act. It did not directly attempt to extinguish the right, title and interest of ryotwari settlement created under the Inams Abolition Act nor acquired the same under the Act.

17. It would thus be clear and we hold that without amending the law under Inam Abolition Act and without properly removing the foundation of the judgments rendered by the High Court, the legislature sought to destroy the effect of the law in Inam Abolition Act on erroneous belief or assumption that it did not bind the religion or charitable institutions or endowment or that the holder of land did not acquire title or no patta was granted to him and the land was still with the institution and treated the occupant as encroacher. The legislation founded on such an erroneous assumption does not have the effect of depriving the holder of the land of their vested rights acquired under the Inams Abolition Act. The legislature has plainly misfired. Accordingly, we hold that Section 76 and Explanation II to Section 2(22) of the Act to that extent are invalid and unconstitutional.”

When once the subject land in the writ petition is notified under A.P (Andhra Area) Inams (Abolition and Conversion into Rytwari) Act, 1956, the grantee becomes absolute owner, in view of the above judgment of the Hon’ble Apex Court. Moreover, the proceedings of 5th respondent dated 01.05.2013 also show that pattas in respect of the subject land were very much granted to the private persons and they became absolute owners of the same. Even the competent authority, Revenue Divisional Officer, Ongole issued proceedings D.Dis.D1/753/2013, dated 21.11.2013 for conversion of agricultural land to non-agricultural land basing on the reports of Tahhsildar dated 01.06.2013 and 11.11.2013, which goes to show that the land is declared as Inams land under A.P (Andhra Area) Inams (Abolition and Conversion into Rytwari) Act, 1956 and pattas were also granted in favour of entitled persons and their names were also included in the revenue records. When the concerned Sub-Registrar has refused to register the land in the said survey number by one of the purchaser, he filed W.P.No.32162 of 2012 and this Court has categorically held that it is a private patta land and that the said order has become final, as such, there was no basis for the respondents to treat the same as land belongs to the Endowment Department.

10. Even the *suo motu* revision undertaken after a long lapse of time by the Endowment Department, even in the absence of any period of limitation, is arbitrary and opposed to the concept of rule of law as held in the judgment of Hon’ble Supreme Court in **Jt. Collector Ranga Reddy District & another v. D.Narsing Rao & others (supra)**. When once the 5th respondent in his

proceedings dated 01.05.2013 has clearly stated that the subject land in the writ petition is a private patta land and this Court has already held in the order dated 16.10.2012 in W.P.No.32162 of 2012 that the subject land is a private patta land, the same cannot be reviewed after long lapse of time even by exercising *suo motu* powers.

11. Normally writ petition will not be entertained when alternative remedy is available and the learned Assistant Government Pleader also pleaded same while citing judgments. But in view of the fact that the order in W.P.No.32162 of 2012 has become final, wherein it is held that the subject land is a private patta land and also in view of the Judgment rendered by the Hon'ble Supreme Court in **Peddinti Venkata Murali Ranganatha Desika Iyengar and others v. Government of Andhra Pradesh and another (supra)**, I do not see any reason to relegate the petitioner to avail alternative remedy.

In view of the above facts and circumstances, this writ petition is allowed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

23.06.2015

Note: LR copy to be marked.

B/o. kvs

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.1077 OF 2015

Date: 23.06.2015

kvs

[\[1\]](#) (1996) 3 Supreme Court Cases 75