

* THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 11513 of 2015

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23.04.2015

Between

Chinta Rathnamma w/o Tirupal

... Petitioner

\$ 1. State of A.P. and 2 others

... Respondents

! Counsel for the petitioner: Sri P. Ganga Rami Reddy

^ Counsel for the Respondents: Government Pleader

for Revenue (A.P.)

< Gist:

> Head Note:

? Citations:

2004 (2) ALD 451

2012 ALT (Rev.) 18

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WRIT PETITION No. 11513 of 2015

ORDER:

The petitioner challenges the Notice dated 13.04.2015 issued under the A.P. Assigned Lands (Prohibition of Transfers) Act alleging that though the petitioner was granted DKT Patta on 09.02.1992, the same was not brought under cultivation within three years from the date of grant. The said allegation was made based on the report of the Additional Revenue Inspector. It is also stated that the land is needed for public purpose for construction of office of Irrigation Department, as the land is situated adjacent to Tirupathi – Srikalahasti Road.

2. Heard Mr. P. Ganga Rami Reddy, learned counsel for the petitioner and the learned Assistant Government Pleader.

3. Learned counsel for the petitioner submits that the requirement of land for public purpose cannot be a ground for cancellation of patta granted in favour of the petitioner, especially in view of the judgment in **Land Acquisition Officer v. Mekala Pandu**. He further submits that, even if the land is required for public purpose, he who has been assigned the land and who has developed the land over the years by putting his blood and toil has to be compensated and such compensation should be in accordance with law. Further, placing reliance on the judgment of this Court in **Jinka Chendrayudu v. Joint Collector, Kadapa District and others**, the learned

counsel submits that very issuance of notice after a lapse of 23 years alleging that the land is not brought under cultivation, is unsustainable, and hence he prays to quash the notice.

4. On the other hand, Mr. Srinivas, learned Assistant Government Pleader, submits that it is only a Show Cause notice and the petitioner has ample opportunity to put forward his case before the competent authority, and there is no reason for the petitioner to apprehend that his case shall not be considered. Learned Assistant Government Pleader also contends that the aspect as to whether the land is cultivated or not is a question of fact which cannot be decided by this Court.

5. Having heard both the counsel and having perused the record and the judgment in **Mekala Pandu's** case (1 supra), so far as the contention of the learned counsel for the petitioner that if the land is required to be acquired for public purpose, the assignee is required to be compensated, in accordance with law, the principles laid down in **Mekala Pandu** (1 supra) cannot be disputed and the said judgment is binding on the authorities. However, a close scrutiny of the judgment of this Court in **Jinka Chendrayudu** (2 supra) reveals that in that case what was challenged was the final cancellation of D-Form Patta and it is not a case arising at the stage when the Show Cause notice came to be challenged. Whether the land in issue was brought under cultivation within the period stipulated in the Conditions of Patta, is a pure question of fact which is required to be enquired into. In that context, it is also not reasonable on the part of the authorities to say after a lapse of 20 to 25 years, without there being any material put forward before the assignee, based on which such a conclusion is drawn. The factors like granting of patta, thereafter the mutation of the same in the revenue records, issuance of pattadar passbooks which provide a column for recording the particulars with respect to possession and cultivation are all the factors which need to be considered by the authorities as and when the Show Cause Notice is replied to. In cases, it is also open to the assignee to challenge the very jurisdiction of the authority, in issuing such a notice, on various grounds including the ground that the very issuance of notice after a long lapse of time is unsustainable.

6. In that view of the matter, liberty is given to the petitioner to submit his reply to the impugned notice, raising all the objections including that of jurisdiction, which are required to be considered by the authority and pass a speaking order. Considering the fact that the impugned notice was given on 13.04.2015, and only seven days time was given to furnish reply, which notice came to be challenged before this Court, the petitioner is given 15 days time from the date of receipt of a copy of this order, to file his reply, which shall be considered by the authorities.

7. Accordingly, the writ petition is disposed of. No costs.

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

CHALLA KODANDA RAM, J

23rd April, 2015

KSM