

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No. 13695 of 2004

ORDER:

This writ petition is filed by the petitioner Society to issue a writ, order or direction more particularly one in the nature of writ of Certiorari to quash the G.O.Ms.No.501 Revenue (Assn.VI) Department dated 28.07.2004.

2. The brief averments of the petitioner Society made in the writ petition are that the Petitioner is a Ongole District Policeman Cooperative Housing Building Society Limited and it is a registered society registered under the A.P. Cooperative Societies Act, 1964 consisting of 558 members, who are employees working in the police Department. The members of the petitioner Society made a request to the Government to provide certain extent of land for providing house sites to them on payment of market value. There upon, the then District Collector, Ongole, issued directions on 19.11.2001 to the then Revenue Divisional Officer-respondent No.3 and also the Mandal Revenue Officer-respondent No.4, to inspect the land in Sy.No.122/10 of Mamidipalem Village. The 3rd and 4th respondents have inspected the land and found that the said land is vacant and further found an extent of Ac.7.00 was already allotted to the RTO Office, Ongole to use the same as testing ground, Ac.1.24 cents was allotted to NCC, Ac.1.03 cents was allotted to A.P. Transco for Electrical Sub Station and Ac.0.85 cents was set apart for laying the road and the remaining extent of Ac.34.92 cents is vacant. Therefore, the said authorities

have recommended for alienating the land to an extent of Ac.29.92 cents in faovur of the petitioner Society on payment of market value. After due procedure, the proposals were submitted to the Government for allotment of Ac.29.92 cents in favour of the petitioner Society on payment of market value and the Government after considering all the aspects and reports, issued orders vide G.O.Ms.No.541 Revenue (Assin.II) Department dated 25.04.2003 alienating an extent of Ac.29.92 cents in favour of the petitioner Society for allotment of house sites on the market value of Rs.50,000/- per acre. Basing on the proceedings of the District Collector, Prakasam District, through proceedings in R.C.E3-4433-1998 dated 26.05.2003 alienated the land in favour of the petitioner Society and directed the 4th respondent to hand over the possession of the land to the President of the petitioner Society or his nominee after payment of market value of Rs.14,96,000/- in the form of demand draft in the name of District Collector and also further directed to incorporate necessary changes in the village and mandal accounts. The petitioner Society paid the above said amount of Rs.14,96,000/- through Demand Draft Nos.516929 and 516930 dated 04.08.2003 and requested the 4th respondent to hand over the possession of the said land to the President of petitioner Society. On receipt of the demand drafts, the District Collector issued proceedings dated 20.08.2003 requesting the 4th respondent to hand over the possession of the land to the petitioner Society and on 27.08.2003 the possession was also handed over by the petitioner Society and from that date the petitioner Society is in

possession and enjoyment of the property. After taking possession of the property, the petitioner Society by incurring lot of expenditure for its development, divided the land into plots and allotted the same to the members of the Society. But, suddenly the Government issued the impugned G.O.Ms.No.501 Revenue (Assn.VI) Department dated 28.07.2004 with regard to provisional assignment made in the year 1970 in Sy.Nos.122/12 and 122/10 and resumed the land from the petitioner Society. Aggrieved by the impugned G.O., present writ petition is filed.

3. Counter affidavit filed by the 3rd respondent-RDO admitting the Government allotted to an extent of Ac.29.92 cents in Sy.No.122/10 situated in Mamidipalem village of Ongole Mandal to the petitioner Society on payment of market value at Rs.50,000/- per acre and issued G.O.Ms.No.541, Revenue (Assn.II) Department, dated 25.04.2003 and directed the District Collector, Prakasham District, to take necessary action in this regard. Subsequently, the District Collector issued proceedings Rc.No.E3/4433-1998 dated 26.05.2003, alienated the land in favour of the petitioner Society on payment of Rs.14,96,000/- and physical possession of the land was also handed over to the petitioner Society on 27.08.2003. It is stated in the counter that on the representation of Dalit Members for assignment of the land in question, the then Tahasildar, Ongole, has issued Provisional Assignment to an extent of Ac.57.94 cents in Sy.No.122/12 in favour of the Dalit Members vide proceedings P.O.No.67/80 dated 25.11.1970. Subsequently an extent of Ac.45.04 cents in

Sy.No.122/10 was assigned to the members of the Scheduled Caste by the then Tahasildar, Ongole, in proceedings Rc.A.No.3361/83, dated 28.02.1984, but the said beneficiaries have not cultivated the land and kept the land vacant and as such the land in Sy.No.122/10 was allotted in favour of the petitioner Society. It is further stated in the counter affidavit that the beneficiaries who were assigned the land in Provisional Assignment are agitating for restoration of the land, therefore, law and order problem occurred and as such to avert the same, on recommendations of the District Collector, Prakasham District, the Government has issued G.O.Ms.No.501, dated 28.07.2004 for resumption of the land to an extent of Ac.26.00 which was assigned to the petitioner Society vide G.O.Ms.No.541. It is further stated that though an extent of Ac.29.00 and odd was allotted to the petitioner Society, O.S.No.36 of 2004 is filed for an extent of Ac.3.00 on the file of the Additional Senior Civil Judge's Court, Ongole by Smt.Mederametla Bharathi and Mederametla Tulasamma, which is pending for consideration, only Ac.26.00 of land was directed to be resumed by the Government. It is further stated that the subject land is a Government land, the Government has vested power to utilize the land for public purpose as and when required. It is stated that originally the land in Sy.No.122 of Mamidipalem village is a Vagu Poramboke prior to 1989. Subsequently, as there was no water source in the said land for several years prior to 1989 and as there was increased demand of house sites, the said land was converted into village sites for the purpose of house site pattas vide proceedings

No.Rc.B3/11455/88, dated 31.12.1988 by the District Collector, Prakasham District. The impugned G.O. has been issued by the Government keeping in view of the interest of Dalit beneficiaries and also the petitioner Society. The request by the petitioner Society for assignment of land is being considered by providing alternative land and they cannot demand a particular land for assignment. Hence, the petitioner Society cannot have any grievance as the alternative land is being provided and prayed to dismiss the writ petition.

4. The 5th respondent filed affidavit stating that the assignment of land in Sy.No.122/10 of Mamidipalem Village is made on provisional basis in the year 1970. It is also stated that they are in possession and enjoyment of the land and as they came to know that subject land was allotted to the petitioner Society, the same was reported District Collector. Basing on the representation, the allotment in favour of the petitioner Society was cancelled and there is no illegality. It is also stated that the impugned order provides for allotment of alternative sites to the petitioner Society also, hence, prayed to dismiss the writ petition.

5. Heard both sides.

6. The learned counsel for the petitioner Society submitted that considering the request of the petitioner Society and the reports submitted by the respondent authorities, the 1st respondent issued G.O.Ms.No.541, allotting subject land in favour of the petitioner Society on payment of market value, and as such, the respondent authorities cannot resume the land without any prior notice. It is also

submitted that when once the market value is paid and possession was handed over, the 1st respondent has no jurisdiction to cancel the allotment vide impugned G.O. He further submitted that when the assignees, in whose favour provisional assignment was made in the year 1984, failed to cultivate the subject land due to scarcity of water, the Government, having considered the request of the petitioner Society, allotted the same to the petitioner Society.

7. Per contra, learned counsel for the respondents submitted that on the agitation made by the dalith members, who were earlier assigned subject land by way of provisional assessment, for restoration of the land in their favour, the Government issued the impugned G.O resuming the land from the petitioner Society. He further submits that the petitioner Society will be provided alternative land and the same is evident in the impugned G.O.

8. Admittedly, the petitioner Society paid the market value of Rs.14,96,000/- as assessed by the concerned authority and also possession was handed over to them on 27.08.2003. Further, no prior notice for resumption was issued to the petitioner Society. In the impugned G.O., except stating that due to the agitation made by the Dalith members and arising of law and order problem, the subject land was resumed from the petitioner Society so as to allot the same in favour of the Dalith members, there is no mention about the violation of any of the conditions stipulated in the earlier G.O, which was issued in favour of the petitioner Society. Though the impugned G.O

clearly shows that the petitioner Society will be provided alternative land, as on date no such land is allotted to them.

9. Accordingly, the writ petition is allowed.

10. Miscellaneous petitions pending, if any, shall stand closed.

There shall be no order as to costs.

A. RAJASHEKER REDDY, J

21st November 2016

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