THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO
AND
THE HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No. 17463 OF 2000

O R D E R : ***(per Hon'ble Sri Justice Nooty Ramamohana Rao)***

This Writ Petition is one of the oldest Writ Petitions still kept pending in this Court. With a view to take up the old matters on priority basis, the Registry is identifying and listing them under the caption 'Specially Identified Cases'. Thus, this Writ Petition came to be listed before us on 11.03.2016. Though the State Government instituted this Writ Petition, none appeared on its behalf on the last occasion. After noticing the fact that the Writ Petition was already dismissed as against the 1st respondent, on 24.10.2011, we adjourned the case to 17.03.2016, as a last chance.

Today, the learned Government Pleader for Assignments (Telangana), Sri P. Durga Reddy would appear in the matter and he requests us to adjourn the case by three more weeks to enable the State Government to take necessary steps for restoration of the case as against the 1st respondent and also prosecute the matter diligently. However, we are not inclined to adjourn this matter any further only to enable the State Government to undertake repair work at this stage.

This Writ Petition is directed against the orders passed by the Special Court constituted under the Andhra Pradesh Land Grabbing (Prevention) Act, 1982 in L.G.C.No. 192 of 1996. It will be relevant to notice that the State, acting through its Revenue Divisional Officer, Warangal, moved the Special Court by instituting L.G.C.No. 192 of 1996 for declaring the respondents as *'land grabbers'* within the meaning assigned to that expression under Act 12 of 1982, to evict them from the schedule property, to award compensation for wrongful possession of the property and for profits accrued there from.

It is the specific case of the State that the schedule property is falling within Survey No. 741 of Urus Village within the limits of Warangal Municipality. The total extent of land that comprises of Survey No. 741 is stated to be Acs. 8.03 guntas and this entire extent is the government land and was classified as such in the revenue records. It is the specific case that during a check undertaken of the government properties, the encroachments made thereon have come to be noticed and that is how the case is filed against the respondents on the ground that they have grabbed the government land without having any manner of right, title or interest over it. Importantly, it is the specific case of the State that there is a mill belonging to the respondents, a platform is constructed for the purpose of drying up the grains and a godown is also constructed. When the respondents were directed to produce their title deed, they have produced a copy of the registered sale deed executed on 05.07.1982 in their favour by their predecessor-in-title, interest and possession, namely Sri Siddamsetty Krishna Murthy, who sold the mill as a going concern along with the appurtenant land thereto. What the State alleges now is that the land, which is sought to be covered by the sale deed dated 05.07.1982, is a different parcel of land and the present rice mill is given a different house number and on that basis, the land belonging to the government was grabbed by the respondents. The respondents herein, who are the respondents before the Special Court, had taken a specific stand that the land in question is not that of the government and on the other hand, it belongs to one Sri Siddamsetty Ramanatham whose son Sri Siddamsetty Krishna Murthy constructed a complex comprising of various mills and the ancillary buildings more than 50 years ago and the complex known as *'Siddamsetty Lingaiah Gari Ramanadham Gin, Rice and Oil Mills'* is existing over a very very long time, it being one of the oldest mills in the locality, and the mills have been assessed to property tax by the local municipality and they were assigned with house Nos. 16/404 to 16/417. The mill property was, in fact, mortgaged in favour of Central Bank of India in the year 1968 by way of a registered document bearing No. 852/1968 and subsequent to this mortgage, a partition has been affected amongst Sri Ramanatham and the other sharers and the document of partition was also got registered bearing No. 775/71 and that the mortgage in favour of Central Bank of India was redeemed by a registered document bearing No. 3444/1977 and that the respondents, after getting the title verified properly, purchased the same in the year 1982 from the children of Sri Siddamsetty Ramanatham and since the predecessors-in-interest of the respondents are in possession of the immovable property for more than 50 years, there is no way the State Government can consider the property as belonging to it or that it has title over it.

Before the Special Court, the Revenue Divisional Officer, Warangal was examined as P.W.1, while the Mandal Revenue Officer, Warangal was examined as P.W.2. Exs. A1 to A8 were got exhibited on their behalf. It would be appropriate, right at this stage, to notice that Ex.A1 is the notice issued in July 1993 calling upon the respondents before the Special Court to produce the title deed if any that they have. Ex.A2 is a panchnama prepared on 14.12.1993 for recording the physical features of the schedule land. Ex.A3 is the sketch prepared by the Deputy Director, Survey & Land Records, Warangal Division. Ex.A4 is a bunch of Pahanis from the year 1978-79 to 1991-92. Ex.A5 is the true extract of 'B' memorandum pertaining to schedule land. Ex.A6 is the Sethwar of 1355 Fasli describing the schedule land as *'Sarkari Poramboke'* (thus, government land). Ex.A7 is the market value certificate dated 22.09.1998. Ex.A8 is the registration extract of a sale deed dated 22.04.1998 reflecting the market value of the land adjoining the schedule land.

On behalf of the respondents, the 2nd respondent, by name Sri O. Lakshminarayana was examined as R.W.1 and the 3rd respondent was examined as R.W.2. They also got exhibited Exs. B1 to B20. We will deal with them a little later.

The Special Court, after analyzing Exs.A1 to A6, has noticed that Ex.A6 Sethwar of 1355 Fasli, which approximately corresponds to 1945 A.D., undoubtedly, reflected that the schedule property is classified therein as 'Sirkari Poramboke' meaning that it belongs to the government, but however, what is relevant to be noticed therein is that the extent of poramboke has been recorded as Ac.0.03 guntas. The Pahanis, which have been marked for the years 1978-79 up to 1991-92, show that the *'kabjadar'* column bearing No. 9 reflected the mill run by the predecessor-in-interest of the respondents. Even in the column relating to 'cultivator', the name of the predecessor-in-interest of the respondents was mentioned. Whereas, for the year 1979-80, as against Survey No. 741/A, specifically it was recorded, in column 2, that the land in question is a patta land. If the revenue record reflects that the land lying in Survey No. 741/A is patta land, it pre-supposes that its ownership and title vest with private individual and that was recognized by the State by way of grant of patta in favour of such individual. Thus, the Special Court has noticed that the contents of the Pahanis marked by the State are mutually contradictory, if not destructive to each other, but nonetheless, the Special Court has recorded a finding in favour of the State based upon the entries found in Ex.A6 Sethwar that it is government land. It will also be appropriate to notice that the Special Court has arrived at this conclusion on the ground that the respondents have not challenged the entries in the Sethwar and that they have also not produced any evidence challenging the same. Though the approach of the subject should have been slightly different, but however, we are not, as at present advised, entering into this aspect of the matter for the reasons which follow now. Dealing with issue No.2 framed by the Special Court "whether Respondents 1 to 3 have perfected their title to the schedule property by adverse possession", the Special Court has no difficulty in noticing the statement made by P.W.1, who is none other than the Revenue Divisional Officer, Warangal, in his deposition saying that there is a mill and open land in the schedule land. Therefore, the government itself is not quite sure as to when its land has been encroached upon or grabbed by the others. As against this ambiguous statement of P.W.1, R.W.1 has specifically pointed out that the predecessors-in-interest have got the property assessed to property tax as long back as in the year 1965. Ex.B5 was marked to demonstrate that Sri Siddamsetty Ramanatham got the buildings assessed to property tax and the building was also assigned house No. 413-427. Ex.B5 is a true extract of the assessment register maintained by the local body. Thus, it is clear that Sri Siddamsetty Ramanatham has got constructed buildings either during 1965 or earlier thereto and got them assessed to property tax by the local municipality in the year 1965. This apart, the property in question has been mortgaged by way of a registered document bearing date 06.04.1968 in favour of Central Bank of India and Ex.B10 is got marked in that respect. Ex.B11 is the registered release deed executed by the bank releasing the schedule property from mortgage. Thus, Exs.B10 and B11 clearly demonstrate that Sri Siddamsetty Ramanatham is found asserting his right, title and interest over the schedule land openly and hostilely to the knowledge of one and all. In fact, he has used the suit schedule land as any other owner would have in his own right by creating a mortgage in favour of Central Bank of India in the year 1968 and then, getting it released from mortgage in the year 1977. Exs.B10 and B11 also deserve to be viewed in the perspective of Ex.B13, which is a communication sent up by the

Inspector of Factories, Warangal disclosing that Sri Siddamsetty Ramanatham's oil mill was found working since 15th December 1959. Therefore, this communication clearly brings out that the extract of assessment of property tax of the year 1965, as is reflected by Ex.B5, is a genuinely valid piece of evidence. If the oil mill is in existence from the year 1959 onwards and the owners of the said oil mill have been openly and hostilely asserting their right, title and interest over the said land and they are also openly dealing with it like any other owner of a private property would have dealt with it, in 1996, the State Government, more than after 30+ years, can assert that the land in question is still owned by them?

In this context, though we have certain amount of reservation to confirm the finding recorded by the Special Court on Issue No.1, as was already indicated by us supra, but nonetheless, its finding on Issue No.2 does not admit of any second opinion. Once it is held that a private party has asserted his right, title and interest over a parcel of land for 30+ years openly and hostilely and is found treating it as if he is a true owner of the same, the concept of *'perfecting the title by adverse possession'* comes into operation. In that view of the matter, we are in agreement with the conclusion arrived at by the Special Court that the L.G.C. deserves to be dismissed.

This apart, this Writ Petition stood dismissed as against the 1st respondent as long back as on 24.10.2011 for sheer default in securing the correct address and for payment of batta for affecting service on him, after providing multiple opportunities to the writ petitioner State Government.

The learned Government Pleader's criticism that the government properties are seldom protected in the manner in which a private person would have protected his own property, need not be taken exception to. The truth of the matter is, unlike in the past, no one is showing the necessary restraint and respect to government properties. People are willing to meddle with government properties and if possible, gain initially a foot-hold and subsequently, grab the entire government land. That is because the vigilance of the government officials over the government properties is largely diluted. Government employees, by their very nature of duties and responsibilities, perform various other important tasks on day to day basis. They may seldom find it really necessary to undertake inspection of all the properties owned by the government, at least on an annual basis. They may be under the impression that the government properties would be shown the necessary respect by the private citizens and that they will stay away there from, but however, when someone has already occupied the land, as early as on 15.12.1959, there is no way that a legal system can come to the rescue after so many decades when a matter is brought before the Court in the year 1996. We quite see the disadvantage or handicap which the Government Pleaders suffer for want of accurate and correct instructions in the matters, but nonetheless, we are constrained to proceed further in this matter as no meaningful purpose would be served by keeping the Writ Petition pending on the docket of this Court. For this reason, we are not interested in adjourning this Writ Petition any further.

The Writ Petition stands dismissed, but however, without costs.

Consequently, the miscellaneous applications, if any shall also stand dismissed.

We hope and trust that the present case, at least, will be an eye opener, so that the State Government will take effective measures for undertaking physical inspection of the properties owned by it once in every year by some one or the other, who is responsible to vouch for the safety of such properties. For this purpose, we mark a copy of our judgment to the Chief Commissioner of Land Administration of both the

States of Andhra Pradesh and Telangana with the hope that the necessary circular instructions would be passed on to all the District Magistrates/Revenue Divisional Officers/Tahsildars-cum-Mandal Revenue Officers.

NOOTY RAMAMOHANA RAO, J

DR. B. SIVA SANKARA RAO, J

17th March 2016

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