

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.10848 OF 2010

ORDER:

The case of the petitioners is that the 1st petitioner was assigned an extent of Ac.3-32 cents i.e. to an extent of Ac.2-50 cents in Sy.No.900/A1 and an extent of Ac.0-82 cents in Sy.No.900/A2. The 2nd petitioner was assigned land to an extent of Ac.2-50 cents in Sy.No.899/3 of Kanigiri Village and Mandal. The petitioners were given D-Form pattas in F.Dis.13/1402 and F.Dis.30/1409 in the year 1992 and 1999 respectively. The petitioners are in possession and enjoyment of the land by cultivating the same and they have not violated any of the conditions of the patta. The assigned lands are the only source of their livelihood.

It is further case of the petitioners that they were issued notices dated 12-11-2008 calling for explanation as to why the lands should not be resumed in favour of the Government in terms of condition No.17 of D-Form patta i.e. for public purpose. The petitioners have submitted explanation to the same. Without considering the same, resumption orders dated 16-03-2010 were issued stating that the subject lands are required for public purpose. Thereafter, the respondent-authorities have visited their land on 30-04-2010 directing the petitioners to vacate the

land. Aggrieved by the same, the present writ petition is filed.

Learned counsel for the petitioners submits that admittedly the subject lands are assigned lands. When the respondents want to resume the same for public purpose, they have to pay compensation in terms of other land owners. But straight away, the impugned order is passed. He submits that in view of law laid by this Court in **LAO-cum-Revenue Divisional Officer, Chevella Division, Domalaguda, Hyderabad v. Mekala Pandu**¹ as affirmed by the Supreme Court, the petitioners are entitled for compensation on par with other owners.

Heard learned Assistant Government Pleader for Revenue.

Admittedly, the petitioners were assigned subject lands and notices were also issued to them stating that the subject lands are required for public purpose. Notices were issued for resuming the land by invoking clause-17 of D-Form patta for public purpose for providing house sites under Indiramma scheme. Larger Bench of this Court in the judgment cited supra held as under:

“ In the circumstances, we hold that the assignees of the Government lands are entitled to payment of compensation equivalent to the full market value of the land and other benefits on par with full owners of the land even in cases where the assigned

¹ 2004 (2) ALD 451 (LB)

lands are taken possession of by the State in accordance with the terms of grant or patta, though such resumption is for a public purpose. We further hold that even in cases where the State does not invoke the covenant of the grant or patta to resume the land for such public purpose and resorts to acquisition of the land under the provisions of the Land Acquisition Act, 1894, the assignees shall be entitled to compensation as owners of the land and for all other consequential benefits under the provisions of the Land Acquisition Act, 1894. No condition incorporated in patta/deed of assignment shall operate as a clog putting any restriction on the right of the assignee to claim full compensation as owner of the land.

In such view of ours, the view taken by this Court in **Bondapalli Sanyasi** (supra) that whenever the land is taken possession of by the State invoking the terms of the grant, the right of an assignee to any compensation may have to be determined in accordance with the conditions in patta itself is unsustainable. With due respect, we are unable to agree with the view taken that the assignee shall be entitled to compensation in terms of the Land Acquisition Act not as owner but as an interested person for the interest he held in the property.”

In the counter filed, it is stated that ex-gratia will be paid to the petitioners as per their entitlement as land assigned to the petitioners was resumed for the public purpose.

In view of the law laid down by this Court in the judgment cited and as affirmed by the Supreme Court, if the respondents want to resume the land assigned to the

petitioners, they have to pay compensation in terms of judgment cited supra.

Accordingly, the writ petition is disposed of directing the respondents to pay the compensation to the petitioners in terms of judgment cited supra. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

18-10-2016
nvl



