

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.Nos.11630 of 2011 & 25913 of 2012

COMMON ORDER:

Heard Sri O.Manohar Reddy, learned counsel for the petitioners in W.P.No.11630 of 2011, Sri C.V.Mohan Reddy, learned Senior Counsel representing Sri Raja Reddy Koneti, learned counsel for the petitioners in W.P.No.25913 of 2012, learned Government Pleader for Revenue, learned Government Pleader for Assignment appearing for the officials respondents in both the Writ Petitions and Sri K.Lakshminarayana, learned counsel for 5th respondent in both Writ Petitions.

2. Since the subject matter of both these Writ Petitions is connected and parties in W.P.No.25913 of 2012 are claiming through the parties in W.P.No.11630 of 2011 the same property, these Writ Petitions are being disposed of together.

3. One Smt. Swaroopa Rani, the mother of the petitioners in W.P.No.11630 of 2011 owned an extent of Ac.1.15 cts of land in Sy. No.520 of Guntur Town, Guntur District.

4. After the advent of Urban Land (Ceiling and Regulation) Act, 1976, she filed declaration under Section 6 of the said Act before the competent authority. He held that she was holding excess land of 2876.13 sq. mtrs.

5. The petitioners in W.P.No.11630 of 2011 questioned the said order before the Commissioner of Appeals.

6. The said appeal was allowed in appeal No.GNT/61/2005 dt.23-03-2006 and the matter was remitted back to the Special Officer.

7. While these proceedings were pending, petitioners in W.P.No.11630 of 2011 apprehended that the Tahsildar, Guntur might assign this land. So they filed W.P.No.14722 of 2004 seeking direction to the respondents in that Writ Petition not to allot the said land in favour of weaker sections. There was a *status quo* order initially granted. But after the Commissioner of Appeals allowed the appeal preferred by the petitioners and remitted the matter back to the Special Officer by Order dt.23-03-2006, W.P.No.14722 of 2004 was dismissed as withdrawn on 18-07-2007.

8. After remand, the Special Officer, ULC, passed fresh orders in ULC No.267/76-B dt.14-09-2007 holding that the mother of the petitioner was not holding any excess land.

9. This order was not challenged by anybody and it has become final.

10. When 4th respondent again threatened to interfere with the possession of the petitioners in

W.P.No.11630 of 2011, 2nd petitioner therein filed W.P.No.10810 of 2011. This Court granted order of *status quo* on 19-04-2011. After this order was communicated to the Tahsildar, he informed that the land had been assigned to the members of the 5th respondent Society in 2004, that they had filed an application before the District Legal Services Authority for delivery of possession, that the land was demarcated as Sy.No.520/3 and that the High Court order only refers to Sy. No.520.

11. In view of these subsequent developments, W.P.No.10810 of 2011 was withdrawn with liberty to file a fresh petition and W.P.No.11630 of 2011 was filed by the petitioners.

12. It is also pertinent to note that petitioners in W.P.No.25913 of 2012 purchased plots in the above land under registered sale deeds as mentioned hereunder:

S.No.	Name of Purchaser	Date of sale deed	Extent
1.	Rella Adilakshmi	29-05-2008	332.22 sq. yds.
2.	N.Siva Shankara Rao	29-05-2008	231.11 sq. yds.
3.	Jasti Vijayalakshmi & Madala Padmavathi	17-03-2011	209 ½ sq. yds.
4.	Y.Sivanageswara Rao	15-05-2008	209 ½ sq. yds.
5.	G.Ramana Reddy	15-05-2008	209 ½ sq. yds.
6.	V.Chenna Reddy	07-05-2008	166.66 sq. yds.

7.	D.Subba Reddy	07-05-2008	266.66 sq. yds.
8.	Bolla Sreenivasulu	07-07-2008	216.66 sq. yds.

13. The petitioners contend that the action of 4th respondent in assigning the land in favour of members of 5th respondent Society and threatening to dispossess the petitioners from the said property is not legal, that it is arbitrary and is without jurisdiction. It is pointed out that once the proceedings of the Special Officer under Section 8 (4) declaring that the mother of the petitioners in W.P.No.11630 of 2011 was a non-surplus holder on 14-09-2007 became final, she would not be having any surplus land which would vest in the State and 4th respondent has no jurisdiction to grant pattas or to deliver possession to the members of 5th respondent. It is contended that since the land is private land of the petitioners in W.P.No.11630 of 2011 and W.P.No.25913 of 2012, it is not open to the respondents to interfere with their possession and enjoyment of the property and such action would be violative of Article 300-A of the Constitution of India.

14. On 21-04-2011, this Court directed *status quo* to be maintained with regard to subject land and the said order is subsisting till date.

15. The learned Government Pleader for Assignments appearing for 4th respondent/Tahsildar contended that initially after the Special Officer had declared that Smt. Swaroopa Rani was the surplus holder to an extent of 2876.13 sq. mtrs., possession of the land was handed over to the Mandal Revenue Inspector, Guntur on 13-09-1991. However, she does not dispute that the said order was questioned in appeal before the Commissioner of Appeals, that the said appeal was allowed in Appeal No.GNT/61/2005 dt.23-03-2006 and the matter was remitted back to the Special Officer, and thereafter, the Special Officer vide order dt.14-09-2007 in ULC No.267/76-B declared that the declarant was holding less than the ceiling limit and was a non-surplus holder. Learned Government Pleader contends that in 2004, certain land was assigned to pig rearers but no such proceeding is placed before this Court.

16. In the counter affidavit filed by 4th respondent, it was categorically denied that 4th respondent had given possession of the subject land to 5th respondent.

17. The 5th respondent filed counter affidavit contending that the members of his client's society had approached the District Legal Services Authority, Guntur in 2011 contending that certain provisional allotment

orders of house plots in the subject land had been issued in their favour by the respondent Nos.1, 3 and 4, but possession has not been delivered to them, that the Secretary, District Legal Services Authority, Guntur had issued notices to 4th respondent and under different *panchanamas* dt.15-04-2011, he had 'shown' possession to the petitioners.

18. Learned counsel for 5th respondent contends that this proceeding of the District Legal Services Authority, Guntur has not been challenged by the petitioners and the petitioners should have impleaded individual members of the 5th respondent-society. He contended that without these persons being in record, Writ Petitions cannot be decided and should be dismissed on the ground of non-joinder of necessary parties.

19. I have noted the submissions of both sides.

20. From the facts narrated above, it is clear that although initially Smt. Swaroopa Rani was held to have been holding excess of 2876.13 sq. mtrs. by the Special Officer and Competent authority under the Act, the said order was set aside by the Commissioner of Appeals in Appeal No. GNT/61/2005 dt.23-03-2006 and the matter was remanded to the Special Officer again. It is not in dispute that on post remand, the Special Officer on 14-09-2007 in ULC267/76-B held that Smt. Swaroopa Rani was

a non-surplus holder.

21. This order has attained finality and has not been questioned by anybody till date. It is not open to 5th respondent to collaterally attack the said order on any ground.

22. According to 5th respondent, provisional allotment order of house plots in the land belonging to Smt. Swaroopa Rani was issued in the year 2004. Admittedly no possession was delivered to them till the members of the Society filed PLC No.40 of 2011 and it is only thereafter on 15-04-2011, under separate *panchanamas*, the 4th respondent allegedly “showed” possession to the members of 5th respondent Society.

23. After the Special Officer passed orders on 14-09-2007 declaring that Smt.Swaroopa Rani is a non-surplus holder under the Act, the land ceased to vest in the State and none of the respondents had any right to “show” possession to the members of 5th respondent Society. Any provisional allotment of plots in the land of Smt.Swaroopa Rani to the members of the 5th respondent Society was subject to the order which would be ultimately passed under Section 8 (4) of the Act by the Special Officer. Once the Special Officer declared that Smt. Swaroopa Rani was a non-surplus holder, the provisional allotment orders of the

house plots to the members of 5th respondent Society would automatically go, would have no legal sanctity and would be null and void.

24. It is not the case of the 5th respondent that there is any order passed by the District Legal Services Authority, Guntur directing the respondent Nos.1, 3 and 4 to deliver possession of the plots to the members of the 5th respondent-Society. Even if there was such an order, it would not be binding on the petitioners in both the Writ Petitions. Therefore any alleged delivery of possession by respondent Nos.1, 3 and 4 or “showing” such possession to the members of 5th respondent Society has no legal sanctity and would be null and void.

25. It is pertinent to note that in the counter filed by 4th respondent in W.P.No.11630 of 2011, it was denied that possession of land was given to 5th respondent-Society and it was only stated that certain pig rearers had been assigned land in 2004. Therefore, no reliance can be placed by 5th respondent on any alleged delivery and possession to the members of the 5th respondent Society by respondent Nos.1, 3 and 4.

26. Any payment of money made by members of 5th respondent to respondent Nos.1, 3 and 4 would also be of no avail and would not confer any right, title or

interest in the property on them.

27. I also do not agree with the contentions of the learned counsel for 5th respondent that since the individual members of 5th respondent are not impleaded, the Writ Petition should be dismissed on the ground of non-joinder of necessary party. This is because the members of 5th respondent Society as well as the 5th respondent acquired no right, title or interest in the properties provisionally allotted to them in the light of the order passed under Section 8 (4) of the Act under Special Officer and Competent Authority

dt.14-09-2007. In any event, 5th respondent Society is representing the interest of its members and they cannot claim to be prejudiced in any manner.

28. In this view of the matter, both the Writ Petitions are allowed and the respondents are directed not to interfere with the possession and enjoyment of the petitioners therein in respect of the subject land in any manner. No costs.

29. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 07-06-2016

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