

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.20140 of 2011

ORDER:

Heard Sri V.Vinod K. Reddy, learned counsel for the petitioner, learned Government Pleader for Assignment appearing for the respondent Nos.1 to 5 and Sri A.Ravinder Reddy, learned counsel for respondent Nos.6 to 9.

2. This Writ Petition is filed by the petitioner assailing the order dt.04-07-2009 in proceedings D.Dis(E4)/15892/2008 of the Joint Collector, Chittoor (3rd respondent).

3. The petitioner was assigned under DKT patta No/64/A/97 dt.08-07-1987 an extent of Ac.2.62 cts in Sy. No.88/2 of Thonduru village, Varadaiahpalem Mandal, Chittoor District. The 10th respondent is her son who was assigned a separate extent of Ac.2.59 cts in Sy. No.88/1 and Ac.2.37 cts in Sy.No.89/2 of the same village. These lands were notified by the Government of Andhra Pradesh as Special Economic Zone for establishing an industrial park along with some lands.

4. The respondent Nos.6 to 9 claim to have purchased from 10th respondent the land assigned to him as well as land assigned to petitioner and they sought for compensation for the land purchased by them.

5. The respondent Nos.6 to 9 filed W.P.No.17249 of 2007 before this Court to declare the action of the respondent Nos.1 to 5 in

not paying compensation to them as arbitrary and illegal. In that Writ Petition, the petitioner, her husband and 10th respondent were also parties. After hearing both sides, this Court passed the following order::

“In view of the conflicting stands taken by the parties, I feel that it would be appropriate if the District Collector, Chittoor District-respondent No.3 examines the respective claims of the petitioners, respondent Nos.6 and 7 and decides whether the assignment of the entire extent of land was granted to Poornanandam, that whether respondent No.6 purchased the same from him and the petitioners, in turn, purchased the said land from respondent No.6. He shall also decide whether even if the said claim of the petitioners is correct, such a transaction is in conformity with the provisions of the Act 9 of 1977. If he finds, with reference to the record, that the assignment was granted in favour of Poornanandam and purchase of the property by the petitioners is not in violation of the provisions of the said Act, then only the petitioners would be entitled to receive compensation. Conversely, if respondent No.3 comes to the conclusion that respondents 6 and 7 are the lawful assignees of the property, they are entitled to receive compensation. If any of the parties is aggrieved by the order of respondent No.3, he/she is entitled to approach the Civil Court of competent jurisdiction by way of a civil suit seeking declaration of his/her title. Respondent No.3 shall decide the above mentioned issues, within a period of two months from the date of receipt of a copy of this order, after giving notice to all the parties, and communicate the order to them. It is needless to state that till such time as respondent No.3 decides the issues mentioned above, compensation shall not be disbursed to any of the parties.”

6. Thereafter, vide proceedings Roc.B/226/07 dt.29-09-2008, the 5th respondent-Tahsildar, Varadayyapalem Mandal, Chittoor District resumed land. He stated that ex-gratia as per G.OMs.No.1307 dt.23-12-1993 would be paid as per the decision in

W.P.No.17249 of 2007. But by the date the said order, the Writ Petition was no longer pending.

7. Be that as it may, 3rd respondent sought to conduct the enquiry pursuant to the directions given by this Court in its order dt.16-09-2008 in W.P.No.17249 of 2007. He issued notice to the petitioner as well as respondent Nos.6 to 10. He confirmed that there were assignment of the extents of land both to the petitioner as well as 10th respondent as mentioned above. He rejected the contention of the respondent Nos.6 to 10 that the land which had been assigned to the petitioner was earlier assigned to one Poornanandam, that the said Poornanandam sold to 10th respondent and that the 10th respondent then sold the same extent of land to respondent Nos.6 to 10 on the ground that there was no record relating to any assignment of land in favour of the said Poornanandam. He however erroneously held that the petitioner had sold land assigned to her to respondent Nos.6 to 9. He then held that neither the petitioner nor respondent Nos.6 to 10 were entitled to any compensation.

8. Assailing the same, the petitioner has filed the present Writ Petition.

9. It is stated by Sri A.Ravinder Reddy, learned counsel for respondent Nos.6 to 9 that they have challenged this order dt.04-07-2009 of 3rd respondent before the Chief Commissioner, Land Administration, Government of Andhra Pradesh and that the said appeal is pending.

10. Learned counsel for the petitioner contended that the finding given by 3rd respondent that the petitioner had alienated the land which had been assigned to her is baseless and is not supported by any material.

11. The learned Government Pleader for Assignment as well as Sri A.Ravinder Reddy, learned counsel for respondent Nos.6 to 9, did not dispute the fact that the petitioner had not alienated any land assigned to her to respondent Nos.6 to 9 or to anybody else.

12. Sri A.Ravinder Reddy, learned counsel for respondent Nos.6 to 9, has not been able to produce any material in support of the contention of his clients that Poornanandam had been assigned the land of extent Ac.2.02 cts in Sy.No.88/2 of Thonduru village, Varadaiahpalem Mandal earlier in point of time to the petitioner. In fact, it is recorded in the order dt.16-09-2008 of this Court in W.P.No.17249 of 2007 that the alleged assignment in favour of Poornanandam (as contended by respondent Nos.6 to 9 herein) was on 06-08-1988 which is subsequent in point of time to the assignment in favour of the petitioner which was on 08-10-1987. Without canceling the assignment of the land made in favour of the petitioner, there could not have been assignment in favour of Poornanandam.

13. Therefore, any right, title or interest claimed by the respondent Nos.6 to 9 through the said Poornanandam of the land assigned to petitioner has no legs to stand. As regards the finding of the 3rd respondent that the petitioner has alienated the land which was

assigned to her is concerned, in the absence of any material to substantiate the same, that finding deserves to be set aside and it is accordingly set aside.

14. Also, respondent Nos.1 to 5 cannot contend that they will only pay ex-gratia as per G.O.Ms.No.1307 dt.23-12-1993 to the petitioner since as per the judgment of the Larger Bench of this Court in **LAO-cum-Revenue Divisional Officer, Chevella Division and Others Vs. Mekala Pandu and Others**¹, if assignee of land is deprived of the land by the State, such assignee is entitled to compensation at market rate.

15. Therefore, the respondent Nos.1 to 5 are directed to pay compensation to the petitioner for the extent of Ac.2.62 cts in Sy. No.88/2 of Thonduru village at the prevailing market rate on 29-09-2008 instead of ex-gratia within a period of twelve (12) weeks from the date of receipt of a copy of this order.

16. Accordingly, the Writ Petition is allowed. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 09-03-2017
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¹ 2004 (2) ALT 546