

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

* * * *

WRIT PETITION Nos.6956, 7503, 12461, 12620, 19461, 19858, 22583, 24216,
24361, 24365, 24540, 24543, 24544, 24563, 24566, 24586, 24720, 24739, 24855,
24890, 24894, 24914, 24915, 24944, 25117, 25152, 25160, 25345, 25355, 25356,
25382, 25394, 25500, 25526, 25578, 25589, 25592, 25601, 25648, 25662, 25696,
25710, 25712 and 29277 of 2010

Between:

Sri Varaha Lakshmi Narasimha Swamy Devasthanam,
Simhachalam, Represented by its
Executive Officer, Visakhapatnam District,
and others.

....Petitioners

and

The Revenue Divisional Officer,
Visakhapatnam (District),
and others.

....Respondents

JUDGMENT PRONOUNCED ON : 24.07.2017

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? : YES
2. Whether the copies of judgment may be
Marked to Law Reporters/Journals? : NO
3. Whether Their Ladyship/Lordship wish to
see the fair copy of the Judgment? : NO

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION Nos.6956, 7503, 12461, 12620, 19461, 19858, 22583, 24216, 24361, 24365, 24540, 24543, 24544, 24563, 24566, 24586, 24720, 24739, 24855, 24890, 24894, 24914, 24915, 24944, 25117, 25152, 25160, 25345, 25355, 25356, 25382, 25394, 25500, 25526, 25578, 25589, 25592, 25601, 25648, 25662, 25696, 25710, 25712

AND 29277 OF 2010

COMMON ORDER:

All these writ petitions are being disposed of by this common order as they relate to the same land owned by the petitioner, Sri Varaha Lakshmi Narasimha Swamy Devasthanam.

Heard learned counsel for the petitioners and the learned Government Pleader for respondents 1 and 2.

W.P.No.6956 of 2010

The facts of this case are that Purushothapuram Village is an inam village in Pendurthi Mandal and was endowed to the petitioner, Sri Varaha Lakshmi Narasimha Swamy Devasthanam. The grant was confirmed in T.D.No.1273 by the then Inam Commissioner in favour of the principal deity. The village was surveyed during the year 1903 and it comprises of the following extent of lands.

- | | |
|---------------|----------|
| i) Wet | Ac.1.13 |
| ii) Dry | Ac.89.20 |
| iii) Banjar | Ac.1.52 |
| iv) Poramboke | Ac.19.59 |

The Special Deputy Tahsildar (Inams), Visakhapatnam passed an order under Section 3(3) of the Andhra Pradesh (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956 ('Inams Abolition Act', for brevity) on 28.01.1978 holding that the lands are inam lands in an inam village belonging to the institution, 'Simhachalam Devasthanam', except the lands shown as 'Poramboke' and 'waste lands', which come under Section 2A of the Inams Abolition Act. Challenging the said decision of the Special

Deputy Tahsildar, Visakhapatnam, the petitioner filed an Appeal before the Revenue Court, which remanded the case to the lower Court by order, dated 31.08.1978 directing the Special Deputy Tahsildar to enquire afresh and pass orders under Section 3(3) of the Inams Abolition Act. The matter could not be finalized before the Special Deputy Tahsildar due to pendency of writ petitions in this Court till 1998. However, this Court disposed of several writ petitions with a direction to continue the pending enquiry under the Inams Abolition Act. Accordingly, fresh enquiry was taken up by the Mandal Revenue Officer, Pendurthi, and he passed final orders in AIAC No.53 of 1977, dated 28.01.1978 declaring that the lands mentioned in the said order vested with the Government free from all encumbrances under Section 2A of the Inams Abolition Act. The third respondent preferred an Appeal before the first respondent challenging the said order and the Appeal was allowed and the matter was remanded to the Deputy Tahsildar (Inams), Visakhapatnam with regard to the land in survey Nos.49 and 50/1 and the Tahsildar was directed to consider the claims of the both parties and decide the matter in accordance with law as per the direction of the Supreme Court in C.A. No.1524 of 2009, dated 24.03.2009. Challenging the said order, W.P.No.6956 of 2010 was filed by the petitioner.

W.P.Nos.12461 of 2010 and 19461 of 2010

In this case, the lands of an extent of Ac.54.16 cents situated in Survey Nos.19 to 193 of Vepagunta Village, Ac.4.48 cents in Survey Nos.31, 56 and 208 of Adivivaram Village, Ac.5.78 cents in Survey Nos.13, 15, 19, 24 and 31 of Cheemulapalli Village are involved. In respect of the lands in Vepagunta Village, orders were passed under Section 3(3) of the Inams Abolition Act on 28.11.1977. The Mandal Revenue Officer, Pendurthi Mandal, granted ryotwari pattas in favour of the Devasthanam by proceedings under AIAC No.55 of 1977, dated 06.09.1996. Challenging grant of ryotwari patta in favour of the Devasthanam, pursuant to the orders of this Court in

W.A.Nos.1650, 1651 and 1654 of 2001, dated 31.12.2001, the affected parties preferred an Appeal before the first respondent. The first respondent by his order, dated 03.04.2010 allowed the Appeal and remanded the matter to the Special Deputy Tahsildar (Inams), Visakhapatnam for considering the claims of both parties and decide the matter in accordance with law under Section 8 of the Inams Abolition Act. Challenging the same, the W.P.No.12461 of 2010 was filed. Challenging the same order, private claimants also filed W.P.No.19461 of 2010.

W.P.No.12620 of 2010

The case of the petitioner is that the entire land in Adivivaram Village is an inam land endowed to the Devasthanam by the erstwhile Maharaja of Vizianagaram. The land situated in Adivivaram Village was declared under Section 3(3) of the Inams Abolition Act by the competent authority as inam land in the inam village held by the Institution and the said decision has become final. As per Section 7 of the Inams Abolition Act, the Institution or the persons holding the land as inamdars are entitled to issue of ryotwari patta and no other person is entitled to claim the land. However, when the respondents 5 to 8 filed a claim petition before the Special Deputy Tahsildar (Inams), Visakhapatnam for grant of ryotwari patta in respect of the land of an extent of Ac.5.82 cents in Adivivaram Village situated in Survey No.83/6, the same was disposed of on 02.02.2009 with a finding that already Form-VIII was granted in favour of the petitioner herein by the then Mandal Revenue Officer, Visakhapatnam (Rural) in AIAC No.2 of 1996, on 14.08.1996. In those circumstances, the respondents 5 to 8 filed an Appeal before the first respondent and the first respondent by his order, dated 03.04.2010 allowed the Appeal and remanded the matter to the Special Deputy Tahsildar (Inams), Visakhapatnam, with regard to the said land of an extent of Ac.5.82 cents situated in Survey No.83/6 of Adivivaram Village. While remanding the matter, he directed the Special Deputy Tahsildar to consider the claims of

both parties and decide the same in accordance with Section 8 of the Inams Abolition Act after giving due opportunity to both parties. Challenging the said order, dated 03.04.2010, the Devasthanam filed the writ petition No.12620 of 2010.

W.P.No.22583 of 2010

The second respondent granted ryotwari patta in favour of the petitioner for the land of an extent of Ac.62.27 cents in Survey No.13/1 and Ac.14.98 cents in Survey No.13/2 of Adivivaram Village, Visakhapatnam Rural Mandal vide Order dated 18.05.1996, passed in AIAC No.1 of 1996. Challenging the same, the fourth respondent herein preferred an Appeal before the first respondent. The first respondent accordingly allowed the Appeal and remanded the matter to the Special Deputy Tahsildar (Inams), Visakhapatnam to consider the claims of both parties and to decide the matter in accordance with Section 8 of the Inams Abolition Act. Challenging the same, the W.P.No.22583 of 2010 was filed.

The averments made in the counter and reply affidavit are not adverted to in this order in view of the nature of the disposal of the present writ petitions, for which, the counsel consented.

Sri Varaha Lakshmi Narasimha Varu of Simhachalam temple was endowed with vast extents of landed properties in 27 villages by the erstwhile Maharajahs of Vizianagaram. Consequent to the abolition of estates under the Estates Abolition Act, 1948, 22 villages were taken over by the Government treating them as inam estates and five villages, namely, Adivivaram, Vepagunta, Venkatapuram, Cheemalapalli and Purushothapuram were declared to be 'not inam estates'. In view of the same, the provisions of Inams (Abolition and Conversion into Ryotwari) Act 37 of 1956 are made applicable to these villages.

The survey of the lands took place in respect of 27 villages of Devasthanam along with estate villages by Mr.Gillman in the year 1903 since

the temple administration was under the administrative control of the Estate Collector of Vizianagaram Samsthanam. The survey conducted by Mr. Gillman in 1903 did not make any distinction between thousands of acres of lands endowed in favour of 104 temples in the Vizianagaram Estate and the Zamindari lands as all those lands were under the administrative control of Vizianagaram Zamindars.

As per the provisions of the Inams Abolition Act, 1956, enquiries were also held under Section 3 of the Inams Abolition Act in the year 1978 and pattas were granted to the Devasthanam to the lands covered by various survey numbers, but several people unauthorisedly and illegally occupied Devasthanam lands by creating some alleged false and collusive documents, and made transactions such as sales etc. They made constructions also in some parts of the land. A House Committee was constituted by the then Andhra Pradesh Legislative Assembly and a Cabinet Sub Committee also went into the matter. Thereafter several writ petitions were filed and the matters went upto the Supreme Court also. The facts in those cases and the orders are not necessary to be repeated herein. The Government, considering representations of the House Committee, Cabinet Sub Committees and the directions of this Court, issued G.O.Ms.No.578, dated 19.08.2000 and other Government Orders constituting a Land Regularization Committee authorizing the Committee to regularize such illegal and unauthorized occupations after collecting the amounts as indicated in Annexure-II in G.O.Ms.No.578, dated 19.08.2000. The Mandal Revenue Officer, by his orders, dated 07.09.1989 in the applications filed by the Devasthanam for issuance of ryotwari patta passed orders granting ryotwari pattas. Challenging the same, Appeals were preferred before the first respondent and challenging the appellate orders, the above writ petitions were filed.

The only grievance raised by the learned counsel for the petitioner is that the first respondent directed the second respondent to consider the case afresh in accordance with Section 8 of the Inams Abolition Act, which is improper. The said direction of the first respondent was found fault with by the unofficial respondents also. The learned counsel for the petitioner could not point out any infirmity in the order of remand except raising the above ground. In the circumstances, the writ petitions filed by the petitioner, Devasthanam, are allowed only to the extent of setting aside the direction to the second respondent to consider the cases after remand in accordance with Section 8 of the Inams Abolition Act while upholding the order of remand. The aggrieved unofficial respondents are at liberty to file appropriate applications in support of their claims and the second respondent shall consider them in accordance with law uninfluenced by the observations made in the present order.

W.P.Nos.7503, 19858, 24216, 24361, 24365, 24540, 24543, 24544, 24563, 24566, 24586, 24720, 24739, 24855, 24890, 24894, 24914, 24915, 24944, 25117, 25152, 25160, 25345, 25355, 25356, 25382, 25394, 25500, 25526, 25578, 25589, 25592, 25601, 25648, 25662, 25696, 25710, 25712 and 29277 of 2010 are the Writ Petitions filed by the 3rd parties who claimed to be in possession of different pieces of land and challenged the auction notification issued by the Devasthanam.

The other writ petitions, as stated above relate to the challenge made to the public auction notice issued by the Devasthanam and in view of the remand of the matters for fresh consideration by the second respondent, it is open to the petitioners therein to submit their claims, if any, to the second respondent and the second respondent shall consider the same in accordance with the provisions of the Andhra Pradesh (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956 and the Rules made thereunder.

In view of the above, all the writ petitions are disposed of giving liberty to the petitioner and respondents, to submit their respective cases/claims with necessary evidence before the second respondent and the second respondent shall consider the same and pass appropriate orders after giving due opportunity to the parties within a period of six months from the date of receipt of copy of this order. In the meanwhile, the *status quo* existing with regard to possession of the respondents/claimants shall be maintained.

Consequently, miscellaneous petitions, pending if any, shall stand closed.

24.07.2017
pln



A.RAMALINGESWARA RAO, J