

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.Nos.5214 of 2009 and 19218 of 2012

COMMON ORDER:

Since the petitioners in both these cases are one and the same and the contesting respondent is also common, these two Writ Petitions are being disposed of by this common order.

2. The subject matter of these two cases is land in Sy. Nos.460 and 462 of Mankal village, Maheswaram Mandal, Ranga Reddy District.

3. One Subash Chandra Tiwari was the cultivating tenant of the said land. He was granted Occupancy Rights Certificate (ORC) by the Revenue Divisional Officer (RDO) vide proceedings No.H/1422/1985 dt.27-03-1985 in respect of the land bearing Sy. Nos.460, 460/2, 461, 462/1 and 462/2 admeasuring 50.16 gts. He later died in 1991.

4. The petitioners claim to have purchased portions of the land under various sale deeds in 1994.

5. Kornu Rajeswara Rao, the 3rd respondent in W.P.No.5214 of 2009 who is also the 5th respondent in W.P.No.19218 of 2012 claimed to be the son of original inamdar and he filed an application in Form-I for grant of ORC under the provisions of the AP (Telangana) Abolition of Inam Act, 1955 in respect of land of extent

Ac.2.06 gts in Sy.No.460/2 and Ac.2.04 gts in Sy. No.462/2, Mankhal village, Maheswaram Mandal, Ranga Reddy District.

6. The petitioners objected to the same taking the stand that no inam land is available for grant of ORC to the son of the inamdar.

7. By order in Case No.J/1519/2007 dt.11-04-2008, the 2nd respondent in W.P.No.5214 of 2009 rejected the application of Kornu Rajeswara Rao stating that ORC had already been granted in favour of one Subash Chandra on 27-05-1985, that Kornu Rajeswara Rao had not challenged the same, that it become final and an extent Ac.2.06 gts in Sy. No.460 and Ac.2.04 gts in Sy. No.462 had been acquired by the Land Acquisition Officer at the request of Executive Engineer P.W.D., Road Division, Hyderabad for the purpose of formation of Hyderabad-Srisailem Road in 1960.

8. This was questioned by Kornu Rajeswara Rao by way of appeal under Section 24 of the AP (Telangana Area) Abolition of Inam Act, 1955 before 1st respondent.

9. The 1st respondent by order dt.17-01-2009 in Case No.F1/4436/2008, held that apart from the land acquired and the land allotted to Subash Chandra Tiwari under the ORC issued on 27-05-1985 there remained some more extent of land in Sy. Nos.460 and 462. He therefore set aside the order passed by 2nd respondent in W.P.No.5214 of 2009 and remanded the case back to 2nd respondent therein for fresh enquiry.

10. Challenging the same, W.P.No.5214 of 2009 is filed.

11. On 16-03-2009, this Court admitted the Writ Petition and granted interim suspension in W.P.M.P.No.6808 of 2009. W.V.M.P.No.4373 of 2012 filed by 1st respondent was dismissed on 22-01-2013.

12. Heard the learned counsel for the petitioners, learned Government Pleader for Revenue appearing for official respondents and Sri E.Madan Mohan Rao, learned counsel for the private respondent in both the Writ Petitions.

13. Learned counsel for the petitioners contended that the finding of 1st respondent that there is other land available, in respect of which, the application of Korne Rajeswara Rao can be considered for grant of ORC, is incorrect and 1st respondent did not properly consider the evidence on record including proceedings/orders under the AP Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 to come to the said conclusion and therefore, the order passed by 1st respondent is to be set aside.

14. Learned Government Pleader for Revenue appearing for respondent Nos.1 and 2 in W.P.No.5214 of 2009 and Sri E.Madan Mohan Rao appearing for Korne Rajeswara Rao contended that the order impugned in this Writ Petition is only an order setting aside the order passed by 2nd respondent and remanding the matter for fresh enquiry to 2nd respondent in the Writ Petition; that the petitioner can

as well raise all contentions open to him before 2nd respondent; and place whatever material he has before 2nd respondent and that in exercise of jurisdiction under Article 226 of the Constitution of India, this Court may not enter into adjudication of factual issues as to whether any land is available in Sy. Nos.460 and 462 apart from the land in respect of it ORC is granted to Subash Chandra Tiwari, after acquisition for road widening and these factual issues be left for determination by the 2nd respondent.

15. I find considerable force in the contention of the learned Government Pleader for Revenue and the learned counsel for Sri Korne Rajeswara Rao.

16. In the impugned order, 1st respondent has categorically stated that the matter has been remanded to 2nd respondent for fresh enquiry. Therefore, all the issues are deemed to have been left open by the 1st respondent. In such a scenario, it would not be proper for this Court to enter into any determination of the issues canvassed by both parties and perform the job which the 2nd respondent is empowered to do under the provisions of the Act.

17. Therefore I do not find any error apparent on the face of the record in the order passed by 1st respondent warranting interference by this Court under Article 226 of the Constitution of India.

18. Accordingly, W.P.No.5214 of 2009 is liable to be dismissed.

19. Coming to W.P.No.19218 of 2012, this Writ Petition has been filed by the petitioners challenging the order 03-09-2011 in C.No.A2/2841/2011 passed by 3rd respondent therein under the provisions of AP Rights in Land and Pattadar Passbooks Act, 1971.

20. Sri Korne Rajeswara Rao had filed a petition aggrieved by a memo No.D/490/2011 dt.03-06-2011 issued by the Tahsildar, Mahesweram Mandal to the Village Administrative Officer, Makhal village to take steps to delete his name in the revenue records in respect of lands in Sy.Nos.460 of extent Ac.2.17 gts and Sy. No.461 of extent Ac.2.04 gts by verifying the records and relevant documents with reference to orders passed by Ranga Reddy District Collector in File No.D5/432/2007 dt.26-07-2008. He contended that the said memo was issued behind his back and therefore requires to be set aside.

21. This petition was entertained under Section 5 (5) of the AP Rights in Land and Pattadar Passbooks Act, 1971 by 3rd respondent in W.P.No.19218 of 2012.

22. After issuing notice to the petitioners herein and keeping in mind the pendency of W.P.No.5214 of 2009 before this Court wherein order passed under AP (Telangana Area) Abolition of Inam Act, 1951 was challenged by the petitioners, the Memo dt.03-06-2011

of the Tahsildar, Maheswaram Mandal was set aside by 3rd respondent. It was further directed that if any entries were deleted pursuant to the said Memo dt.03-06-2011 by the VRO, Makhal village, they should be restored immediately. He however directed that *status quo* as on that day should be maintained till the disposal of W.P.No.5214 of 2009 and other proceedings before the Joint Collector, Ranga Reddy District in Case No.D5/1611/2010 and also before the Civil Court.

23. I have already dismissed W.P.No.5214 of 2009 and remitted the matter back to 2nd respondent in W.P.No.5214 of 2009 for fresh enquiry.

24. Therefore, W.P.No.19218 of 2012 is also disposed of directing further action to be taken on the basis of the result of the enquiry to be conducted by 2nd respondent in W.P.No.5214 of 2009 under the provisions of the AP (Telangana Area) Abolition of the Inam Act, 1955.

25. Accordingly, the W.P.No.5214 of 2009 is dismissed and W.P.No.19218 of 2012 is disposed of. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 25-01-2017

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