THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.3102 of 2012

O R D E R:

Petitioner's husband by name Chinna Venkataiah was granted DKT patta by the Revenue Officials of an extent of Acres 4.00 guntas in survey No.22/1 of Changambakam village, Sathyavedu Mandal, Chittoor District vide proceedings DKT No.35/4/1386 dt.03.06.1978. He died subsequently and on his death, the Revenue Department of the State Government recognized the petitioner as his legal heir and issued Pattadar Pass Book and Title Deed to her under the provisions of A.P. Rights in Land and Pattadar Pass Book Act, 1971.

2. The said land was subsequently needed by the State Government for establishment of Industrial Park. Therefore a resumption order was passed in proceedings ROC No.B/332/07, dt.18.05.2007 resuming the said land and it was subsequently alienated to the A.P. Industrial Infrastructural Corporation(APIIC) by the State Government vide G.O.Ms.No.1111 Revenue (Assign-IV) Department, dt.16.09.2008 for establishing Industrial Park.

3. Petitioner contends that though she was issued Pattadar Passbook and Title Deed by the 4th respondent for the above land after the death of her husband, and she was in possession and enjoyment of the said land as legal heir,

the respondents have taken the said land from her in 2008 for the purpose of establishing Industrial Park without notice and she is entitled to compensation for the same. She contended that when she approached the respondents for payment of exgratia for the above land, they gave an evasive answer.

4. Counsel for petitioner reiterated the said contentions and stated that as per the decision of the Larger Bench of this Court in ***Land Acquisition Officer-cum-R.D.O., Chevella Division, Hyderabad and others v. Mekala Pandu and others(LB)***[1] the assignees of the Government lands are entitled for 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 lands are taken possession of by the respondents in accordance with the conditions of grant of patta and even though such resumption is for a public purpose.

5. In the counter affidavit filed by the respondents it is stated that though Pattadar Passbook and Title Deed was issued to the petitioner, she was not in possession of the land and that in the course of a field inspection, it was found to be in possession of petitioner's son and her brother-in-law's son, one G.Muni Krishnaiah. It is stated that since the petitioner was not in possession of the land, exgratia as per

[1] 2004(2) ALD 451

G.O.Rt.No.1307 dt.23.12.1993 of Rs.5,00,000/- each was paid to the petitioner's son and to the son of the brother-in-law of the petitioner on 19.06.2007 and 21.07.2007, respectively. It is therefore contended that the petitioner is not eligible for grant of exgratia since it was already paid to her legal heirs on the ground that the property in question was joint family property.

6. The Government Pleader for Land Acquisition reiterated the above contentions.

7. From the facts narrated above it is clear that petitioner's husband was assigned Acres 4.00 guntas of land in survey No.22/1 on 03.06.1978, that after the death of petitioner's husband, 4th respondent had issued Pattadar Pass Book and Title Deed to the petitioner recognizing her as the owner of the land and later this land was resumed by the Government on 18.05.2007 for setting up an Industrial Park and alienated to APIIC vide G.O.Ms.No.1111 Revenue (Assign-IV) Department, dt.16.09.2008.

8. It is strange that without issuing any notice to the petitioner, the respondents determined the exgratia and paid it to her son and to her brother-in-law's son treating the said land as a joint family property. When the property is granted to the petitioner's husband under DKT patta and subsequently on his death, petitioner was recognized as his

legal heir and Pattadar Pass Book and Title Deed was issued to her, nobody else could have been paid any amount by the responders other than the petitioner, that too without issuing any notice to the petitioner.

9. Petitioner was aged 65 years at the time when the Writ Petition was filed in the year 2012 and was aged more than 60 years at the time when the land was resumed in 2007. So, naturally she would be getting the land cultivated through her son or somebody else, and from this it cannot be presumed that she is not in possession of the land. Also when petitioner herself is alive, the respondents cannot pay any amount to her son since he would inherit the property only after her death.

10. Therefore, the action of the respondents in paying exgratia to the petitioner's son and to her brother-in-law's son cannot be treated as payment of any amount to the petitioner.

11. The Larger Bench of this Court in ***Mekala Pandu***'s case(1 supra) has already held that even if assigned lands are acquired for public purpose, the assignees have to be treated as full owners of the land and they are entitled to compensation equivalent to the full market value of the land along with other benefits on par with full owners. It also held that no condition incorporated in Patta or Deed of Assignment shall operate as a clog putting any restriction on the right of

the assignee to claim full compensation as an owner of the land.

12. Thus the petitioner, who was recognized as an owner by issuance of Pattadar Pass Book and Title Deed by the Revenue Department after the demise of her husband, who was the original assignee, is entitled to compensation equivalent to the full market value of the land and other benefits, as if she is the full owner thereof.

13. Therefore, this Writ Petition is allowed and the respondents are directed to pay compensation to the petitioner equivalent to the full market value of the land and other benefits under the provisions of the Land Acquisition Act, 1894 as if she is the full owner of the land. This exercise shall be completed within a period of three (03) months from the date of receipt of a copy of this order. However, liberty is given to the respondents to recover the amounts paid to the petitioner's son and to the son of the brother-in-law of the petitioner. There shall be no order as to costs.

14. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

29th August, 2017.

gra