

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION Nos.14080 OF 2003 AND 23914 OF 2004

COMMON ORDER:

These two writ petitions are being disposed of by this common order as they arise out of same cause of action.

The petitioner in W.P.No.14080 of 2003 was initially formed as a Society under the Andhra Pradesh Cooperative Societies Act with 134 members. They all belong to Scheduled Caste and they are landless poor persons. The object of the Society was to take Government land on lease and cultivate the same and eke out their livelihood. The Society was given an extent of Acs.133.69 cents covered by Lanka No.653 of Pedapatnam Lanka on lease, which was granted initially for ten years subject to renewal for a further period of ten years, by proceedings of the third respondent, dated 29.09.1966. While so, in the year 1976, the Government took a policy decision to assign all land in East Godavari, West Godavari, Krishna and Guntur Districts to the members of the respective Societies on permanent basis. Accordingly, the Government issued G.O.Ms.No.970, Revenue Department, dated 25.08.1976 and also G.O.Ms.No.485, Revenue (Q) Department, dated 30.04.1977 and Memo No.2003/Q1/77-2, dated 24.06.1977 framing certain guidelines for grant of permanent pattas in favour of the members of the Society. The claims of the members of the petitioner Society were considered and as there were only 103 members, each member was given Acs.1.00 cents of land leaving an extent of Acs.30.69 cents. When the respondents 3 to 5 tried to dispossess the petitioners from the said land, they approached the second respondent by filing a revision petition seeking a direction to the third respondent to grant patta to the said extent of land also to the members of the petitioner Society as they are eligible for grant of pattas. When the said proceedings were pending before the

second respondent, the petitioners in W.P.No.23914 of 2004 filed an implead petition stating that they are legal heirs of the original members of the Society and they were prevented from cultivating the land. Their claim was denied by the petitioners stating that they are not residents of Pedapatnam lanka village and their names were not found in the voters list also. Their claim of being legal heirs of the deceased members was also denied. However, when the second respondent took up the matter, the petitioner did not represent. Ultimately, on hearing the implead petitioners, the petitioners in W.P.No.23914 of 2004, the second respondent passed an order directing the District Collector to enquire into the eligibility of the implead petitioners and grant patta in terms of the G.O.Ms.No.970, Revenue Department, dated 25.08.1976 and G.O.Ms.No.485, Revenue (Q) Department, dated 30.04.1977. While giving such a direction, the second respondent observed as follows.

The counsel for the impleadment petitioners argued that the Divisional Cooperative Officer in his letter addressed to the Joint Collector referred to above, has categorically stated that the society started with 130 members and that 105 members were alive during 1977 when pattas were granted to them. He has further stated that the remaining 25 members were not provided any land and that in the year 1978 the Board of the Society had admitted legal heirs of the 25 deceased members and each one of them was allotted 1.00 cents of land. Thus, the Society itself had recognised the legal heirs of the 25 deceased members and allotted to them 1.00 acre of land each. The Divisional Cooperative Officer has further observed that some of the members (those who were alive during 1977) had been unauthorisedly cultivating the land allotted by the Society to the legal heirs of the deceased members. He requested the Joint Collector, to allot patta to the legal heirs of the deceased members, a list of which he enclosed to his proceedings Rc.No.11669/897-D-1, dated 18.01.1988.

Thus, the Society itself had admitted the claims of the legal heirs of the deceased who are the impleadment petitioners and the Divisional Cooperative officer had also requested the Collector to grant pattas to them. In view of this, the revision petition fails and the Collector is directed to grant pattas to the legal heirs of the deceased members who are impleadment petitioners herein. This Court does not deem it necessary to

deal with the arguments of revision petitioners that the impleadment petitioners are not residing in Pedapatnam lanka village, that their names are not entered in voters' list and that they took back their share capital in view of the fact that the Society itself had allotted the land to the impleadment petitioners. However, as a matter of precaution, the Collector is requested to examine the following before granting pattas to the impleadment petitioner (respondent 4):

1. Whether the deceased members (of whom the impleadment petitioners are the legal heirs) are even now members of the Society?
2. Whether any of them had ceased to be members of the Society withdrawing their share capital.
3. Whether they are residents in the village.
4. Whether their names are in the voters' list of the village.

After enquiry into these aspects, the Collector may grant patta in terms of G.O.Ms.No.970, Revenue Department, dated 25.08.1976 and G.O.Ms.No.485, Revenue (Q) Department, dated 30.04.1977, which embody instructions of the Government regarding the allotment of lands.

Against the said order, the petitioner preferred a revision to the first respondent and the first respondent upheld the order of the second respondent with the following observations.

It is also observed that the said Society abstracted 29 persons belonging to Sri T.R.S.Cooperative Farming Society and did not allow them to cultivate. This attitude on the part of the Society is highly unwarranted and speaks of high handedness of the Society. The Society approached the Hon'ble Court and the Court also refused to entertain. The Court directed the Chief Commissioner of Land Administration to examine the issue and pass appropriate orders. After carefully going through the records and arguments, it is felt that the Collector's action in assigning the land to 29 members of T.R.S.Cooperative Collective Farming Society is justified and as such, the land has to be restored to those 29 persons or to their legal heirs. The Srirama Cooperative Collective Farming Society does not have any claim as a Society and the members who were already assigned land one acre each does not have any claim as a Society and the members who were already assigned land one acre each does not have any right as they were not cultivating the land assigned to 29 members. The Collector might have decided in the interest of the equality to give reasonable extent of land, who are also eligible in addition to 103 members of Srirama Cooperative Collective Farming Society. Now coming to the

legal heirs of the members of the Society, it is seen that they were not cultivating the land at that time and they could not be considered Sivaijamedars in terms of G.O.Ms.No.970, Revenue Department, dated 25.08.1976 and their claim cannot be accepted.

In view of the position stated above, the Revision Petition deserves to be dismissed and the Collector is directed to restore the land in question to the assignees who were prevented from cultivation. However, before doing so, he should re-check their eligibility and those who are ineligible, their assignment be cancelled and the land may be assigned to other eligible persons.

The Collector, East Godavari District, is requested to take action accordingly.

However, a reading of the above observations made by the first respondent appears to be self contradictory as the claim of the petitioners in W.P.No.23914 of 2004 was not accepted, whereas in the final paragraph, the Collector was directed to restore the land to the assignees, who were prevented from cultivation. Now challenging the order of the first respondent, the above writ petitions were filed.

It is clear from the above facts that the members of the petitioner Society in W.P.No.14080 of 2003 were given one acre each as they were found eligible for allotment of the land as per G.O.Ms.No.970, dated 25.08.1976 and G.O.ms.No.485, dated 30.04.1976. Now the present dispute concerns the balance extent of land, which was originally given on lease to the petitioner Society and it is of an extent of Acs.30.69 cents. The petitioners in W.P.No.23914 of 2004 claim that they are the legal heirs of the original members of the Society and they were prevented from cultivating the land, when the allotment of land to the surviving members took place. The petitioner in W.P.No.14080 of 2003 submits that the petitioners in W.P.No.23914 of 2004 are not at all eligible as they were not residents of the village and they were not cultivating as on the date of issuance of the Government Order. Be that as it may, since the order of the second respondent directed the enquiry by the Collector before the

grant of pattas in terms of the Government Orders, this Court is not inclined to interfere with the orders and uphold the order of the second respondent. Since the order of the first respondent is self-contradictory, it is set aside. In view of the upholding of the order of the second respondent, it is open to the Collector, East Godavari District to make an enquiry in terms of the Government Orders and take a decision with regard to the claim of the petitioners in W.P.No.23914 of 2004. In view of the objections raised by the learned counsel for the petitioner in W.P.No.14080 of 2003, an opportunity is given to the petitioner to represent its case by filing appropriate written objections before the District Collector and the District Collector shall consider the objections and the claims of the parties and take appropriate decision in accordance with law within a period of six months from the date of receipt of copy of this order.

The writ petitions are accordingly disposed of. Miscellaneous petitions, if any pending, in these writ petitions, shall stand closed.

19.06.2017
pln

A.RAMALINGESWARA RAO, J