

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION Nos.18182 AND 16885 OF 2003
AND 33100 OF 2011

COMMON ORDER:

These three writ petitions are being disposed of after hearing the learned counsel for the petitioners as well as the learned Government Pleader with their consent for disposal as well as to the manner of disposal of the writ petitions by the common order.

These three writ petitions challenge the initiation of the proceedings under Section 10 of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (the Inams Abolition Act, for brevity) and passing an order on 07.07.2003 by the Joint Collector, Medak District, in Case No.F1/4480/2000. The land is situated in survey Nos.134 and 135 of Edul Nagulpalli Village, Ramachandrapuram Mandal, Medak District. The total lands involved are Acs.43.30 and 716.16 guntas, which are originally recorded as Maqta Mafi Inam in the name of Md.Ibrahim Saheb Vakil. The petitioners claim that they are either purchasers of the land or protected tenants or successors of pattadars or the successors of the said categories of persons.

It appears that the Member of Legislative Assembly, Narsapur, raised the issue relating to the sale of land treating them as patta lands to various individuals and action against those individuals for their eviction. The issue was raised on the floor of the Legislative Assembly and a House Committee was constituted to look after the irregularities and to suggest remedial measures. The House Committee recommended certain remedial measures by issuing Occupancy Rights Certificates (ORCs) to the occupants of the land under the provisions of the Inams Abolition Act besides protecting the interests of purchasers. On the basis of the recommendations of the House Committee, the Government issued Memo No.11977/Asn. V.1/97-20, dated 07.03.2001 directing the Joint Collector, Medak District, to take necessary immediate action as per the Rules under the provisions of the Inams

Abolition Act. The Government issued another Memo on 23.07.2002 directing to take action after conducting thorough enquiry basing on the records. Accordingly, notices were issued under Section 10 of the Inams Abolition Act, to determine the status of inamdars and occupants of survey Nos.134 and 135. Apart from the same, the notices were also issued through paper notification (Eenadu daily), dated 06.06.2003, calling for claims and objections, if any, from inamdars, occupants and other interested parties. The parties have filed counters/objections and arguments were advanced. The Joint Collector framed the following points for consideration.

1. The competency of this Court to take up the case in the first instance i.e., to examine the nature and history of land.

2. The decision with respect to the nature of land and whether it is a competent case to be taken up under the Inam Abolition Act in view of various parallel litigations on this issue and objections raised by the respondents.

3. In case the Court is a competent Court, the consequential action thereafter.

Insofar as the jurisdiction to decide the dispute, the Joint Collector came to the conclusion that the provisions of the Inams Abolition Act do not preclude him from exercising inherent powers, though a notification was issued in G.O.Ms.No.1122, Revenue, dated 20.08.1975 authorising the Revenue Divisional Officers to discharge the functions of the Collectors under Section 2(1)(a) of the Inams Abolition Act in their respective divisions. Thereafter, the Government issued G.O.Ms.No.818, Revenue (Ser.I) Department, dated 06.09.1990 reserving the subject 'Inams Abolition Act' to the Joint Collectors. In G.O.Ms.No.699, dated 13.07.1994, *suo motu* powers were given to the Collectors. Hence, he came to the conclusion that authorising the Revenue Divisional Officer to discharge the functions of the Collector does not mean that the Collectors have no jurisdiction under Section 10 of the Inams Abolition Act.

On point No.2, after verifying the documentary evidence, the Joint Collector came to the conclusion that the entire extent of land in survey Nos.134 and 135 of Edul Nagulpalli Village is a maqta (inam) land. As a consequence thereof, on point No.3, he ordered 38-E Certificates issued in favour of the persons are cancelled and he also cancelled the pattadar pass books and title deeds. He remanded the matter to the Revenue Divisional Officer to conduct *de novo* enquiry in respect of issuance of Occupancy Rights Certificates to the eligible persons under the provisions of the Inams Abolition Act with respect to their occupation as on 01.11.1973. It is further observed that the land, which is found to be not under the occupation of any persons as on the crucial date, would vest with the Government and shall be recorded as 'Kharij Khata' in the revenue records. The Mandal Revenue Officer, Ramachandrapuram, is directed to resume the lands purchased from the inamdars/protected tenants and also the other un-occupied lands including the irrigation sources, nalas etc., till finalisation of the case by the Revenue Divisional Officer and shall protect the land from encroachments/grabbing and send compliance report by 30.07.2003. He passed the said orders on 07.07.2003.

The said order is challenged in the present writ petitions mainly on the ground that the original authority is the Revenue Divisional Officer, who has jurisdiction to decide the nature of the land and the persons eligible for Occupancy Rights Certificates, if the land is held to be an inam land.

It is submitted by the learned counsel for the petitioners that the Joint Collector is the appellate authority and even though the Memo issued by the Government directing him to take action, he ought not have exercised the power and hence, the findings recorded by the Joint Collector under Point No.1 is not correct. It is further submitted that the cancellation of 38-E Certificates, which were issued under the provisions of Andhra Pradesh

(Telangana Area) Tenancy and Agricultural Lands Act, 1950 and consequent cancellation of pattadar pass books and title deeds are also invalid.

After hearing the learned counsel for the petitioners, the learned Government Pleader submitted that the second respondent ought not to have exercised the jurisdiction in a matter of this nature as the power has to be exercised by the Revenue Divisional Officer under the provisions of Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955. He also submitted that the cancellation of 38-E Certificates by the second respondent in the present proceedings is not proper.

In view of the consent of all the counsel for relegating the matter to the Revenue Divisional Officer, the matter is remanded to Revenue Divisional Officer, Sangareddy. In view of consent of all the counsel, this Court purposely did not refer to various averments made in the affidavits and counter affidavits filed before this Court.

The Revenue Divisional Officer, Sangareddy, shall decide whether the subject land is an inam land or not. If it is held to be the inam land, he has to decide the persons entitled for Occupancy Rights Certificates as on the relevant date. If he comes to the conclusion, on the basis of the documentary evidence produced before him, that the subject land is not an inam land, he shall give opportunity to all the persons to work out their remedies in accordance with law. Since the issue has been pending for the last seventeen years, it is needless to observe that the Revenue Divisional Officer, Sangareddy, shall take expeditious steps to notify the persons through a paper notification in newspapers and other available modes, hear them and pass appropriate orders in accordance with law. The entire exercise shall be completed within a period of six months from the date of receipt of copy of this order.

This Court, while admitting the writ petition, on 28.08.2003, granted interim direction to the respondents not to interfere with the petitioners'

possession and enjoyment of the property subject to condition that the petitioners shall not create third party rights or alter the nature of the land in possession. In view of the same, the said order shall prevail till the disposal of the matter by the Revenue Divisional Officer, Sangareddy.

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

A.RAMALINGESWARA RAO, J

12.06.2017
pln

