

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION Nos.2237 of 2008 and 9531 of 2009

COMMON ORDER:

These two Writ Petitions are being disposed of by this common order as W.P.No.2237 of 2008 was filed by the father, whereas W.P.No.9531 of 2009 was filed by the children and their claim relates to the same extent of land admeasuring Ac.1.20 guntas in Survey No.53/1 of Jangaon Village and Mandal in Warangal District.

The petitioner in W.P.No.2237 of 2008, who is the father, occupied the said extent of land which is a Government land. There is no dispute that he is also the owner of adjacent lands in Survey Nos.95 to 101. He wanted to take advantage of the assignment policy of the Government issued in G.O.Ms.No.1724, Revenue Department, dated 26.08.1959, relating to assignment of Government lands. He filed W.P.No.23628 of 1996 for grant of patta in respect of the said land and this Court dismissed the said Writ Petition on 20.01.2003, but permitted the petitioner to file a fresh application and the respondents were directed to consider the same as per G.O.Ms.No.508, dated 20.10.1995, G.O.Ms.No.1724, dated 26.08.1959, G.O.Ms.No.1406, dated 25.07.1958 and Memo No.4220/B1/65-1, dated 16.02.1966. Pursuant to the said order, he submitted a representation on 06.12.2004. On such representation, the District Collector

directed the Revenue Divisional Officer, Jangaon, by letter dated 20.04.2005 to send proposals in terms of G.O.Ms.No.1724, dated 26.08.1959, as amended by Government Memo No.4220/B1/65-1, dated 16.02.1966, as G.O.Ms.Nos.508 and 1406 are not applicable to the case. The Revenue Divisional Officer, Jangaon, submitted proposals for allotment of the said land of Ac.0.20 guntas each in favour of the father and children on payment of market value vide his letter dated 15.07.2005 and recommended to fix the market value at Rs.3,00,000/- per acre. Accordingly, the District Collector, Warangal, by proceedings dated 08.12.2005 accorded permission for assignment of the said Government land in Survey No.53/1 of an extent of Ac.1.20 guntas to the father and two children @ Ac.0.20 guntas each on payment of full market value at Rs.3,00,000/- per acre as recommended by the Revenue Divisional Officer, Jangaon, subject to the conditions that the land is inheritable but not alienable and it should be utilized for agriculture purpose only. Accordingly, the Revenue Divisional Officer, Jangaon, was directed to take necessary action for assignment of the above land on payment of full market value. The father deposited the amount for the land and when no action was taken, he filed W.P.No.2237 of 2008 challenging the inaction of the respondents in granting patta. The two children also filed W.P.No.9531 of 2009 for similar relief.

It appears that the father filed Contempt Application No.356 of 2007 in C.C(SR).No.3202 of 2007, on which a factual

report was submitted by the Revenue Divisional Officer to the District Collector, Warangal, on 17.08.2007, wherein it was stated that his private agricultural patta lands were sold away as house plots and they were made fit for commercial purpose. Thereafter, the District Collector issued a show cause notice giving the details of sale of lands by the petitioners and asking the petitioners to prove their eligibility as per G.O.Ms.No.1724, dated 26.08.1959, as amended by Government Memo No.4220/B1/65-1, dated 16.02.1966. The show cause notice was issued to the three petitioners. When there was no response and no documentary evidence was placed to prove the eligibility, a final order was passed on 24.02.2008 rejecting the request on the following grounds:

“The lands surrounding the government land in question are sold for house plots and they are not being used for agricultural purpose.

The petitioner had sold the patta land contiguous to the Government land in question. Hence the petitioner is not eligible for assignment under G.O.Ms.No.1724 Dt.26-08-1959 amended by Govt.Memo No.4220/B/165/1, Dtd.16-02-66.

The names of the others i.e., Sri Cholleti Ram Madhan Reddy and Avanthula Sucharitha are not entered in pahani. Hence they are not eligible for assignment as they are not adjoining land pattadars.”

Though the said order was made available in the counter affidavit filed in W.P.No.9531 of 2009, the said order was not challenged by the petitioners.

Now the learned Counsel for the petitioners submitted that in view of the earlier permission granted by the District

Collector and deposit of the amount pursuant to the said order, the petitioners are entitled for assignment of the land.

I have carefully perused G.O.Ms.No.1724, dated 26.08.1959, as amended by Memo dated 16.02.1966. The said Government Orders provide for assignment of Government lands mainly to landless poor persons. Admittedly, the petitioners owned agricultural lands and they sold the same as house plots. The entire case of the petitioners is based on earlier orders of the District Collector, Warangal, which was also again based on the report of the Revenue Divisional Officer, Jangaon, submitted in 2005. Thereafter things have changed and it came to light that the petitioners owned agricultural lands and they converted them into house plots and sold to different individuals. Now in the counter affidavit filed by the District Collector, the District Collector agreed to refund the amount lying in the Government account. Even after passing an order way back on 24.02.2008 by the District Collector after issuing a show cause notice to the petitioners, the petitioners did not challenge the said order, but continued the present Writ Petitions.

In the circumstances, no relief can be granted in these two Writ Petitions and the Writ Petitions are, accordingly, dismissed. However, the District Collector is directed to refund the amount deposited by the petitioners to the petitioners along with interest @ 9% per annum, within a period of three months from

the date of receipt of a copy of this order. The miscellaneous petitions pending in these Writ Petitions, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

12.06.2017
vs

