

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.10321 OF 2007

ORDER

Heard learned counsel appearing for the petitioner and learned Government Pleader for Revenue.

It is the case of the petitioner that he filed a declaration in CC.No.820/VJA/75, under Section 8 of the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, declaring the lands held by him and his family of an extent of Ac.15.36 cents in various survey numbers situated at North Valluru Village, Vijayawada Taluk and an extent of Ac.12.52 cents, situated at Narakullapadu Village, Sathenapalli Taluk, Guntur District. Without considering the declaration filed by him, the Verification Officer has recorded in his report the nature of the lands relating to North Valluru Village as wet lands. Based on the said report, the Land Reforms Tribunal held that the lands held by the petitioner are wet lands and an *ex parte* order was passed on 20.09.1982 holding that the petitioner was holding the land excess of ceiling limit to an extent of equivalent to 0.2065 S.H. Challenging the said *ex parte* order, the State preferred LRA No.156 of 1982 on the file of the Land Reforms Appellate Tribunal, Krishna, at Machilipatnam and the same was dismissed *vide* order dated 5.4.1983. The Land Reforms Tribunal

passed yet another ex parte order on 22.02.1985 accepting the surrender of Ac.3.72 cents in R.S.No.273/1 of North Valluru Village and directed the Sub Collector, Vijayawada, to take possession of the said lands. Being aggrieved by the same, the petitioner preferred LRA No.17 of 1985 before the Land Reforms Appellate Tribunal on the ground that after dismissal of LRA No.156/1982 no notice was given to him to surrender the surplus land. The Land Reforms Appellate Tribunal vide order dated 06.06.1985 allowed the appeal by setting aside the order dated 22.02.1985 and remitted the matter to the Primarily Tribunal for fresh disposal. The Land Reforms Tribunal reiterated the earlier order passed on 20.09.1982 and held that the said order holds good. Challenging the same, the petitioner preferred L.R.A.No.66 of 1985 before the Land Reforms Appellate Tribunal, which was dismissed on 23.12.1985, confirming the order of the Primarily Tribunal. Questioning the same, the petitioner preferred a revision before this Court vide C.R.P.No.1453 of 1986 and the same was allowed on 10.04.1987 by setting aside the orders of both the Tribunals and remitted the matter to the Land Reforms Tribunal. The Land Reforms Tribunal, after remand, by order dated 17.08.1991, confirmed its earlier order. As against the said order, L.R.A.No.14 of 1991 was preferred by the petitioner, but it was dismissed for default.

Challenging the same, the petitioner filed C.R.P.No.192 of 1994 and the same was dismissed on 29.1.1994 giving liberty to the petitioner to file an application for restoration before the Appellate Tribunal. Accordingly, M.P.No.22 of 1994 was filed to set aside the default order with an application to condone the delay of 18 days under Section 5 of the Limitation Act. The said application was dismissed on 28.07.1994. Against the said order, the petitioner again filed C.R.P.No.,3001 of 1994 and the same was allowed on 29.12.1995, due to which, LRA No.14 of 1991 was restored to its file. After restoration, the Land Reforms Tribunal passed an order on 15.4.1997 remanding the matter to the Land Reforms Tribunal for fresh disposal in accordance with law. After remand of the matter to the Primarily Tribunal, the petitioner filed an application for appointment of an Advocate Commissioner on two points.

- “a. Whether the Land belong to the petitioner in North Valluru Village are getting water supply through the Government source of canals or from the private bore wells?
- b. Whether Ac.4.98 cents in Narakullapadu Village is in the possession and enjoyment of declarant's sister to whom the land was gifted towards “Pasupu Kunkuma” by the declarant.”

The said application was ordered and the Commissioner submitted his report on 9.7.1999. Thereafter, no orders were passed by

the Land Reforms Tribunal. While so, when an order was served on the petitioner on 22.4.2007 purporting to have been passed on 10.04.2007 to surrender the excess land equivalent to 0-2065 S.H, the present writ petition was filed.

A counter-affidavit is filed stating that the Land Reforms Tribunal finally enquired the matter on 24.02.2001 after filing of the counter objections by the Authorized Officer against Advocate Commissioner's report. In the enquiry, notices were issued to the declarant, Authorized Officer, Land Reforms and Advocate Commissioner and they attended the enquiry. Though various averments were made in relation to the factual matter, they need not be narrated here.

Today, when the matter is taken up for consideration, learned Government Pleader produced before this Court a copy of the note file wherein it was recorded that an order appeared to have been passed on 24.2.1991 rejecting the case of the petitioner, but he did not produce any copy of the said order.

Learned counsel appearing for the petitioner submits that the petitioner did not receive any order.

Be that as it may, the impugned order dated 10.4.2007 refers to the order of Land Reforms Tribunal dated 20.09.1982 whereunder the petitioner was asked to surrender the excess land.

The above averments would clearly show that the said order was set aside *vide* C.R.P.No.1453 of 1986 dated 10.4.1987 and hence, no notice can be issued to the petitioner pursuant to the order dated 20.09.1982.

In view of non-communication of any order pursuant to the remand made by the Land Reforms Tribunal in LRA No.14 of 1991, dated 15.4.1997, this Writ Petition is allowed by setting aside the impugned order. The respondents shall communicate a copy of the order if at all was passed on 24.02.1991 and if no order was passed the petitioner shall be given an opportunity to represent his case and the respondents shall pass a fresh order in accordance with law and that after passing fresh order only, the consequential proceedings shall be taken by either of the parties.

JUSTICE A.RAMALINGESWARA RAO

14th July, 2017
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