

THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT

W.P.NO.21794 OF 2016

ORDER:

Vide the present petition, petitioner seeks direction thereby directing the respondents not to erect any fencing over the vacant land admeasuring to an extent of Acs.9-35 guntas in Sy.No.197 sitauted at Yapral village, Malkajgiri Mandal, Rangareddy Distsrict, by implementing the orders of this court passed in W.P.Nos.20371 of 1997 and 17811 of 2001 dated 26.11.2001 and initiate land acquisition proceedings in the interest of justice.

As stated in the writ affidavit that the father of the petitioner late Sree Ramulu was the owner and pattadar of the land in an extent of Ac 11.05 guntas in Sy No.196 and Ac 9.35 guntas in Sy No.197 of Yapral Village, Malkajgiri Mandal, Ranga Reddy District. In Khasra Pahani and other Pahanies, the name of the petitioner's father is shown as pattadar of the land. When the petitioner came to know that the name of his father was deleted and has not been shown as pattedar in the revenue records, though he was recognized in Khasra pahani and other final records, he made an application to the Mandal Revenue Officer (MRO) for necessary correction of the revenue records. The said application was dismissed by MRO vide order dated 24.08.1993. Being aggrieved, the petitioner filed a Revision petition before the Joint Collector, and the same was dismissed vide order dated 21.08.2000. Aggrieved by the same, the petitioner filed two writ petitions vide WP Nos.20371 of 1997 and 17811 of 2001 before this Court and

both the petitions were disposed of vide common order dated 26.11.2001. While disposing of the said W.Ps, this Court directed the Government to initiate land acquisition proceedings under Land Acquisition Act (for short “the Act”) by acquiring the land in question. It was further directed that this exercise shall be completed within a period of four months from the date of receipt of a copy of the order.

The State Government i.e., respondents, being aggrieved by the aforesaid common order, filed W.A. Nos.825 and 957 of 2002 and Division Bench of this Court vide order dated 24.08.2010 dismissed those writ appeals as not maintainable. Further, being aggrieved, respondent No.1 i.e., State Government preferred Special Appeal Nos.32823-32826 of 2010 before the Supreme Court, however, those appeals were also dismissed vide order dated 03.04.2013, as there are no legal and valid grounds for interference. The Government further filed review petition Nos.1357-1376 of 2014, which were also dismissed on the ground of delay as well as on merits vide order dated 28.08.2014. Therefore, the orders of this Court in WP Nos.20371 of 1997 and 17811 of 2001 have attained finality.

However, the Government has not implemented the said orders by initiating the proceedings under the Act within four months thereafter. Consequently, the petitioner filed Contempt Case Nos.443 and 444 of 2014 against the concerned authorities on 18.03.2014, which are pending for adjudication.

Thereafter, the petitioner had obtained an information from 2nd respondent under the RTI Act, which shows that, the 2nd respondent has addressed a letter No.F1/28/2010, dated 31.7.2014 to the 1st respondent expressing his inability to take any decision to implement the orders of this Court passed in WP Nos.20371 of 1997 and 17811 of 2001, and hence, requested for necessary instructions for taking further action in this regard. However, there was no response from the 1st respondent. On 03.05.2016, the petitioner made a representation to the 1st respondent requesting for necessary instructions to the concerned authorities for initiating land acquisition proceedings in respect of land in Sy No..196 and 197.

Thereafter, on hearing that respondent No.3 is in process to erect fencing over the vacant land without taking any steps for acquisition of the land, therefore, the petitioner again submitted a representation to the respondents No.3 and 4 vide letter dated 18.6.2016, requesting to stop the work of erection of fencing, but the respondents did not stop the work.

Mr Balaram, learned counsel appearing on behalf of the petitioner submits that the respondents have no right whatsoever in petitioner's vacant land, but they have resorted to deprive his legitimate right over the property by violating the specific directions given by this court. In case, the Government is not able to acquire the land, it is bound to restore at least vacant land available to an extent of Ac 9.35 guntas in Sy No.197 at Yapral Village and stop the work of erection of fencing.

Learned counsel further submits that public servants of respondents No.3 to 5 came to his land on 16.6.2016 at 11.00 a.m. bestowed their personal interest by making their physical presence over the site location and supervised the work of erection of the fencing over the vacant land in Sy No.197. The said act amounts to disregard of specific directions of this Court vide common order dated 26.11.2001 in WP Nos.20371 of 1997 and 17811 of 2001. Thus, the public servants of respondents No.3 to 5 have violated the statutory provisions under Section 14(1) and Sections 24 and 26 to 30 of the Right to Fair compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act, 2013. Thus, caused loss to the land owners. Moreover, have infringed statutory rights by erecting a fencing around the vacant land to an extent Ac 9.35 guntas in sy No.197 without acquisition which shows dereliction of duties and inaction of public servants to implement the orders of this Court. The said is nothing but is a wilful and deliberate contempt of the orders of this Court. The intentional act of public servants of respondents No.3 to 5 created the legal litigation and affecting valuable rights of the petitioner-land owners.

Learned counsel further submits that the servant of respondents No.2 and 4 ignored the provisions under Section 3(1)(a)(b), (2) of A.P. Rights in Land and Pattadar Pass Books Act 1971 by deleting the name of petitioner's father Sree Ramulu as Pattedar in the pahanies for the year 1978-1988 and incorporated the name of the encroachers, J.J. Nagar Colony, in Sy No.196 to an extent of Ac 11.05 and in Sy No.197 to an extent of Ac 9.35 cents.

Moreover, allowed various persons to construct houses without any acquisition of land and proper assignment as required under the law of assignment.

Learned counsel has fairly conceded that respondents No.1, 3 and 5 were not parties to WP No.20371 of 1997. However, respondent No.3 unauthorizedly taking the assistance of respondents No.4 and 5 proceeding to erect fencing by taking assistance of police. Therefore, the petitioner made a representation to respondents No.3 and 4 informing about the common orders passed by this Court in WP Nos. 20371 of 1997 and 17811 of 2001. Despite of their knowledge about the orders passed by this court, they continued to proceed with the fencing work.

It is pertinent to mention here that this court vide order dated 07.09.2016 initiated contempt proceedings against respondents and also directed to remain personally present in court on the next date of hearing. However, the said order was challenged in W.A.No.936 of 2016 and the Division Bench of this court while entertaining the appeal, recorded as under:

“The State of Telangana represented by the Principal Secretary, Revenue is in appeal against the interlocutory order passed in W.P.M.P. No. 26784 of 2016 in Writ Petition No. 21794 of 2016, dated 7.9.2016. While elaborate submissions were made both by the learned Advocate General appearing on behalf of the appellants, and Sri V. Balram, learned counsel for the respondent, it does appear that the State has filed a counter affidavit, albeit after the aforesaid interim order was passed by the learned Single Judge. Both the learned Advocate General, and Sri V. Balram, learned counsel, would

submit that, instead of the appeal being entertained, it would be suffice if the order under appeal is set aside, and the W.P.M.P. is heard afresh and decided after taking into consideration the averments in the counter affidavit. The order, in W.P.M.P. No. 26784 of 2016 in Writ Petition No. 21794 of 2016 dated 7.9.2016 is set aside. The learned Single Judge shall hear W.P.M.P. No. 26784 of 2016 in Writ Petition No. 21794 of 2016 on its merits, and after taking into consideration the averments in the counter affidavit. It is open to the learned counsel for the respondent-writ petitioner to request the learned Single Judge to hear W.P.M.P. No. 26784 of 2016 at an early date. 2 The writ appeal is accordingly disposed of. Miscellaneous petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.”

Consequently, the Division Bench of this court has set aside the order dated 7.9.2016 passed by this court and directed to decide the matter afresh by taking into consideration the averments made in the counter affidavit.

I have no hesitation to say that vide order dated 13.07.2016 upon hearing the learned counsel for the petitioner, at the request of the learned Government Pleader for Revenue, this court directed to list the matter after four weeks. Thereafter, the matter was listed on 26.8.2016 and again the matter was listed on 6.9.2016. However, on that day, the learned counsel appearing on behalf of learned Advocate General sought time on the ground that Advocate General has to argue this case. Thus, the respondents never sought time to file counter affidavit. Accordingly the case was directed to be notified on 7.9.2016 at 2.00 p.m. by making it clear that if the Advocate General is not available, the respective Government Pleaders / Standing Counsel, shall argue the case.

Moreover, this court also recorded its opinion that there is no need to file reply in the case in view of the averments of the petition noted above.

It is not out of place to mention here that this is a case where the respondents went up to Supreme Court by challenging the orders passed by different Benches of this court in different petitions. However, the Supreme Court closed the chapter on 3.4.2013 and finally on 28.8.2014. Unfortunately, till date, the petitioner is running from pillar to post and respondents have not complied with the directions issued by the Court. This is height of non-implementation of order passed by the Court.

It is pertinent to mention here that after hearing the matter by this court on 07.09.2016, initiated contempt proceedings and directed the respondent to file affidavit and shall also personally remain present in court. The respondents instead of challenging the said order, filed counter affidavit on 21.9.2016 very cleverly without permission of this court and thereafter challenged the order dated 07.09.2016 passed by this court in appeal by giving impression that this court did not consider their counter affidavit, however passed the order. Accordingly, the respondents prayed before the appellate court that let counter affidavit filed be considered and pass orders afresh. Accordingly, the appellate court i.e., the Division Bench of this court directed this court to consider the counter affidavit and decide afresh.

It would be judicial impropriety if I comment anything upon the direction of the Division Bench of this court to decide the

matter afresh. But I feel it my utmost duty to refer that the respondents due to the reasons best known to them, did not give an inch of land despite the directions of this court, which was confirmed up to Supreme Court. It is difficult to digest that once the Division Bench of this court and the Supreme Court finally decided the matter, thereafter, the respondents have not complied the directions passed by this court in W.P.Nos.20371 of 1997 and 17811 of 2001 dated 26.11.2001, whereby directed the Government to initiate land acquisition proceedings under Land Acquisition Act for acquiring the land in question. It was further directed that this exercise shall be completed within a period of four weeks from the date of receipt of a copy of the order. However, the said order was not complied with.

Since the Government had not initiated land acquisition proceedings, the petitioner filed contempt cases in C.C.Nos.443 and 444 of 2014 against the concerned authorities on 18.3.2014, which are pending for adjudication.

On behalf of 1st respondent, No.1- State of Telangana, the Special Chief Secretary, Revenue Department, has filed counter affidavit, whereby stated that one P.Sriramulu was the pattedar of the lands bearing Sy.No.196, extent of Acs.11-05 gts and Sy.No.197 extent of Acs.9-35 gts., situated at Yapral Village, Malkajgiri Mandal, Rangareddy District as per entries in Khasra Pahani of the year 1954-55. However, Sri M.R. Krishna, former Minister and Member of Parliament purchased the land mentioned above in the year 1955 by paying an amount of Rs.3,000/-. The said transaction of sale is evidenced by the receipt dated 17.09.1955

issued by the pattadar P.Shivaram in favour of M.R.Krishna. Thereafter, M.R.Krishna addressed a letter dated 7.3.1990 to M.R.O. Malkajiri, whereby stated that he has purchased the land from P.Shivaram and also produced xerox copy of the receipt issued by the said Shivaram towards part payment of his land. Thereafter, said M.R.Krishna donated the said lands to the Government for the purpose of construction of houses for scheduled castes, some time in the year 1955. Sri Govind Vallabh Pant, the then Union Home Minister had laid foundation for the said works in the year 1955 itself. The central Government, in appreciation of construction of houses for scheduled castes, sanctioned and released a sum of Rs.1,00,000/-. Accordingly, around 300 houses were constructed in Sy.No.196 by the end of the year 1956. Shri Pandit Jawaharlal Nehru, the then Prime Minister of India inaugurated the said housing colony constructed for scheduled castes. The said colony is known as Jai Jawahar Nagar Colony. The houses were fully occupied by the beneficiaries.

It is further stated in the counter affidavit that on 10.02.1956, the heirs of late Shivaram namely Laxmi (wife) and Jagdish (son) made representation to the Director, Social Services Department, admitted that the price fixed for the said land in Rs.3,000/- I.C. and requested for payment of additional sum of Rs.1,800/-, as enhanced amount. In the said letter, both wife and son of late Shivaram admitted the sale transaction effected by her husband in favour of M.R.Krishna and receipt of Rs.3,000/- from M.R.Krishna towards consideration.

It is further submitted that the land donated by M.R.Krishna in Sy.Nos.196 and 197, ceased to be the agricultural lands and hence same was classified as 'Sarkari' from the year 1958-59 onwards in the revenue records. The revenue account of the pattedar Shivaram in respect of said Sy.Nos.196 and 197, were deleted by way of 'Ain Kami' in the Faisal Patti of the year 1958-59. Consequently, no land revenue was collected in respect of the said lands from the year 1958-59 onwards. Since no houses were constructed in Sy.No.197, in the year 1989, the said M.R.Krishna made proposal for assignment of house site patta certificates to the beneficiaries of Jai Jawahar Nagar Colony. The M.R.Krishna filed application in Form-C in respect of Sy.No.197 admeasuring Acs.9-35 gts to the M.R.O. Malkajgiri under Rule 116 of A.P. (T.A.) Land Revenue Rules, 1951. The M.R.O., Malkajgiri issued proceedings, accepting for surrender of Acs.9-00 guntas of land out of Acs.9-35 gts. in Sy.No.197 vide proceedings No.B/6574/1988 dated 25.3.1989. M.R.Krishna again approached the M.R.O., Malakajgiri, with a request to modify the earlier orders by confining the surrender to an extent of Acs.7-00 gts only instead of Acs.9-00 gts. Moreover, M.R.Krishna filed Form-C under Rule 16 of A.P. (TA) Land Revenue Rules, 1951 for the extent of Acs.7-00 gts in Sy.No.197. The M.R.O., Malkajgiri, recorded the statement of M.R. Krishna on 17.6.1989, The M.R.O. Malkajgiri issued proceedings No.B/6574/1988 dated 8.8.1989, accepting the relinquishment of Acs.7-00 gts only instead of Acs.9-00 gts in Sy.No.197. The said proceedings of the M.R.O., Malkajgiri dated 8.8.1989 have become final. The pahani patrik of the year 1988-89, reflects the said

proceedings of the M.R.O., Malkajgiri dated 8.8.1989. However, after a lapse of 37 years, by suppressing all material facts, the petitioner filed application on 3.7.1993 in Form-I under A.P. ROR Act, 1971 before the M.R.O. Malkajgiri for mutation of the name of the petitioner, S.Surender, Jagdish in respect of Sy.No.196, in an extent of Acs.11.05 guntas and an extent of Acs.9-35 gts in Sy.No.197, showing them as sons of late Sriramulu. However, the application in Form-I was signed by the petitioner herein alone. The M.R.O. Malkajgiri, vide proceedings No.ROR/Yapral/2060/93 dated 24.8.1993 rejected the said petition, holding that the subject lands are not governed by AP ROR Act, 1971 since housing colony has come up thereon and the lands are classified as 'Sarkari / abadi' in the revenue records from the year 1958-59. Thereafter, one B.Satyanarayana Goud, s/o Shivaiah Gound, in the capacity as GPA holders of S.Jagadish, S.Surendra and S.Narendra filed revision petition in case No.D5/1176/1994 before the Joint Collector, R.R. District against the orders of M.R.O. Malkajgiri dated 24.8.1993. The Joint Collector by his order dated 21.8.2001 dismissed the revision petition, confirming the order of the M.R.O., Malkajgiri dated 24.8.1993.

It is fairly conceded in the counter affidavit that during the pendency of revision petition, petitioner himself filed W.P.No.20371 of 1997 seeking a direction to the District Collector, Rangareddy District and the M.R.O., Malkajgiri to restore the land in Sy.No.197 admeasuring Acs.9-35 gts or in the alternate, direct the respondents to initiate the proceedings under the Land Acquisition Act. It is alleged in the writ petition that the land in Sy.No.196 was

illegally assigned to the third parties without his notice or to his father and without resorting to the provisions of Land Acquisition act and since the Government is in possession of Sy.No.197, writ petition is confined to Sy.No.197.

It is also admitted in counter affidavit that, the State was not a party to the writ petition. Therefore, questioning the order of the Joint Collector in revision petition dated 21.8.2001 by one Shankar s/o Pochaiah, in the capacity as G.P.A. holder of the petitioner, filed writ petition No.17811/2001, making Joint Collector and M.R.O., as party respondents, however, the State was not a party to the said writ petition also. Both the writ petition Nos.20371 and 17811 of 2001, were disposed of directing the Government to initiate proceedings under the Land Acquisition Act. The Joint Collector, Rangareddy District and M.R.O., Malkajgiri, filed writ appeals in W.A.No.825/2002 against the order in W.P.No.17811/2001 and the District Collector, R.R. District and M.R.O. filed W.A.No.955/2002 against the order in W.P.No.20371 of 1997. In the pending W.A.No.825/2002, a petition vide W.A.M.P.No.2567/2009 was filed to add State of Andhra Pradesh as a party by transposing appellants Nos.1 and 2 as respondents 3 and 4. The said petition was opposed by the petitioner herein and the Division Bench of this court dismissed both the appeals mentioned above along with the implead petition vide order dated 24.8.2010. Aggrieved by the judgment of the Division Bench, State filed S.L.P.Nos.15169-15170 of 2011 before the Supreme Court of India and the same were dismissed on 3.4.2013. The review petitions filed by the State were also dismissed on 28.8.2014.

Despite, it is admitted in the counter affidavit that the Government has undertaken the fencing of the vacant land in Sy.No.197 in order to prevent encroachments by third parties.

The learned Government Pleader appearing on behalf of the Advocate General for the State of Telangana submitted that there is series of correspondence made by the wife of Sriramulu @ Shivaram, the pattadar along with her son by name Jagdeesh. In letter dated 10.02.1956, addressed to Director, Social Service Department, the wife of Sriramulu stated that her husband had already sold the land in question and received an amount of Rs.3,000/- from M.R.Krishna towards the cost of the land originally fixed. Further, she had requested for additional amount of Rs.1,800/- as per the compromise made by her husband for payment of Rs.4,800/- before the Social Service Officer, Raja of Domakonda, in the presence of M.R. Krishna for the above land, which was transferred in favour of the Social Service Department.

The learned Government Pleader further submits that M.R.Krishna, the then Member of Parliament had informed to the authorities concerned that the said properties were purchased by him and were transferred for construction of weaker section houses. The construction of houses on this land is substantiated through a letter addressed by Sri D.C.Bandu, the then Home Minister, Government of Hyderabad vide D.O.Lr.No.4819, dated 18.10.1955, wherein the said authority had appreciated the efforts of Sri M.R.Krishna in providing houses to Scheduled Castes (Harijans) in Bollarum and Kandiguda localities and had requested

the said Krishna to complete the project of construction of 300 houses, for which an amount of Rs.1,00,000/- was sanctioned by the Central Government. Accordingly, the fact of Central Government aid was informed to M.R.Krishna, the then M.P. vide Lr.No.1969 dated 10.07.1956 by the Special Social Welfare Officer, Hyderabad. Subsequently, the Government of Hyderabad on 30.06.1956 addressed a letter to the Chairman, Jai Jawahar Nagar Committee vide No.7956/A-4/166/55 with a direction to furnish the expenditure particulars of sanctioned amount of Rs.50,000/- as a subsidy towards construction of the houses so as to release the balance amount. Above correspondence, letter and proceedings clinchingly proves that during the lifetime of late P.Sriramulu, the properties were purchased by late M.R.Krsihna, who in turn, transferred the subject lands for the construction of houses to weaker section. Sri M.R. Krishna also filed W.P.No.26697 of 1998 and in the sworn affidavit filed before this court, stated that he purchased the total extent of land in Sy.Nos.196 and 197 from the pattadar late Sriramulu and that he is instrumental in construction of the houses which was named 'Jai Jawahar Nagar'.

Learned Government Pleader further submitted that till 1989-90, there was no dispute whatsoever on the particular subject property and the petitioner in connivance with the local land grabbers and also with some of the disgusted members of the J.J. Society, have created fake documents and started claiming that he is son of original pattadar late Sriramulu and the Government acquired the property without paying compensation. The office of the Tahsildar, after making local enquiry, in his communication

addressed to RDO vide Lr.No.B/6574/88 dated 10.03.1991 has clarified that late P.Sivaram has reported to have expired about 35 years back leaving two successors-in-interest i.e., Jagadish and Surender and both of them are residing at Bhoopal and their correct addresses are not available, but however, Smt. Shantha Bai, who is the nephew of late Shivaram is residing at Yapral. The enquiry in this regard was made in connection to the notification to be made under the provisions of A. P. Escheats and Bona Vacantia Act, 1974. In the said report, the present petitioner's name was not found and the petitioner instead of obtaining succession certificate, has started claiming himself as son of late Sriramulu and entitled for compensation for the lands standing in the name of Sriramulu, relying upon the entries in the revenue records up to 1960-61. Moreover, letter submitted by wife of late P.Sivaram to the Social Service Department dated 10.02.1956 does not state about the other legal heirs except the name of Jagadish whose name is also found in the report sent by Tahsildar dated 10.03.1991. Therefore, the petitioner who is allegedly claiming as legal heirs of late Sriramulu, is not entitled to file any writ petition claiming compensation or the ownership or entitled over the properties, which are under the occupation of Government since more than last five decades and wherein, the houses have been constructed for weaker sections without seeking a declaration that he is the legal heir of late Sriramulu. During the life time of late Sriramulu, and his wife, have not laid any claim over the property. Thus, the present petition is liable to be dismissed.

I have heard Learned counsel for the parties in length and perused the record on file.

Vide W.P.No.20371 of 1997 before this Court, the petitioner has prayed as under:

“Petition under Art 226 of the Constitution of India praying that in the circumstances stated in the affidavit herein the High Court will be pleased to issue the Writ of mandamus or any other appropriate order, or directions against the respondent and direct the respondent No.1, to restore land in survey No.197 admeasuring Ac 9.35 gts situated at village Yapral, Malkajgiri Mandal, R.R. District, forthwith or in the alternative direct the respondents to initiate and complete the proceedings under the Land Acquisition Act within a period of three months.”

Vide another Writ petition No.17811 of 2011, the petitioner has prayed as under:

“Petition under Article 226 of the constitution of India praying that in the circumstances stated in the affidavit herein the High Court will be pleased to issue a Writ of Certiorari or any another order, Writ or directions and after calling for the records and quash the orders passed by the respondent in File No.D5/1176/94 Dt 21.08.2000 confirming the orders of 2nd respondent in File NO.ROR/yapral/2060, Dt 24.08.1993.”

The above mentioned both petitions were disposed of by this Court vide common order dated 26.11.2001, whereby this Court directed the Government to initiate land acquisition proceedings under the Land Acquisition Act by acquiring the land in question.

This Court further directed the Government that this exercise shall be done within a period of four months from the date of receipt of a copy of that order. The respondent-Government

challenged the said order in the writ appeals vide W.A.Nos.825 and 957 of 2002 before the Division Bench of this Court and approached up to Supreme Court vide Special Leave Appeal Nos.32823, 32826 of 2010 as discussed above. However, no leave was granted, moreover review filed by the respondents also dismissed. Thus, order dated 26.11.2001 has attained finality. But the Government has failed to implement the orders of this Court and violated the specific directions issued by this Court. Consequently, the petitioner filed Contempt Case Nos.443 and 444 of 2014 against the concerned authorities on 18.03.2014 however the same are pending. Meanwhile, the petitioner obtained an information from the second respondent under RTI Act, which shows that the second respondent has addressed a letter No.F1/28/2010, dated 31.07.2014 to the first respondent expressing, his inability to take any decision to implement the order of this Court passed in W.P.Nos.20371 of 1997 and 17811 of 2001 and has requested for taking necessary instructions for further action in this regard. However, no response from the other end. The relevant portion is at para-7, page 55 (Ex.P7 and Ex.P8 internal correspondence between R3 and R4), which are at page Nos. 46 to 55.

On 10.05.2016 the petitioner made a representation to the first respondent requesting him for necessary instructions to the concerned authorities for initiating Land Acquisition Proceedings in respect of land in Sy.Nos.196 and 197, which is Ex.P11, page Nos.57 to 60. Thereafter, the petitioner learnt that the third respondent initiated proceeding to erect a fencing over the vacant

land without taking any steps for acquisition of the land. Accordingly, the petitioner submitted a representation to respondents No.3 and 4 vide letter dated 18.06.2016, requesting to stop the work for erection of fencing, but they did not stop, which is evident from Ex.P12 at pages 61 to 64 and Ex.P13 are photographs which are at page No. 65 and 66. On the contrary, the respondents on 05.08.2016 and on 06.08.2016 have completed the erection of fencing over the vacant land in Sy No.197 in an extent of Ac 9.35 guntas situated at Yapral village with babul wire fencing and it is written on the poles that it is a government land. To this effect, the petitioner has taken photographs on 05.08.2016 and 06.08.2016 and filed memo on 26.08.2016 vide USR No.23495 of 2016, which is Ex.P10 at page No.56.

It is pertinent to mention here that the Government has not issued any proceedings for assignment of the land to the landless poor in Sy No.196 and further they have no plans whatsoever to assign the vacant land in Sy No.197 situated at Yapral village. Therefore, it appears that there is no intention of the government to acquire the land in question.

On the other hand, the Government allowed encroachments of various persons without any assignments in Sy No.196 treating the land as Government land and constructed an overhead water tank in Sy No.197 without any acquisitions.

In my opinion, in case the Government is not able to acquire the land, at least it is bound to restore vacant land available in an extent of Ac 9.35 guntas in Sy.No.197 of Yapral village and initiate

action for removal of encroachments in Sy Nos.196 and 197 of the said Village. The Government failed on the Count. Thus, the public servants of respondents No.3 to 5 violated the statutory provisions under Section 14 (1) and Section 24 and 26 to 30 of The Right to Fair Compensation And Transparency in Land Acquisition and Rehabilitation And Resettlement Act, 2013, intentionally to cause loss to the land owners. Moreover, infringed statutory rights of land owners and erected a fencing around the vacant land to an extent of Ac 9.35 guntas in Sy No.197 without acquisition which shows a dereliction of duty and inaction of the public servants to implement the orders of this Court violating the statutory provisions of the law which is a willful and deliberate one.

In addition, the public servants of the said respondents No.3 and 4 ignored the provisions under Section 3(1) (a) (b), (2) of A.P. Rights in Land and Pattadar Pass Books Act, 1971, deleting the name of the petitioners father late Sree Ramulu as Pattedar in the pahanies for the year 1978-1988 and entered as 'Sarkari', incorporated the name of the encroachers, J.J. Nagar Colony in Sy. No. 196 to an extent of Ac 11.05 guntas and in Sy. No.197 to an extent of Ac 9.35 guntas, and allowed various persons to construct the houses, without any acquisition of the land and proper assignment as required under the law of assignment.

It is important to refer that on 07.09.2016 in WP MP No.26784 of 2016 in W.P No.21794 of 2016, this Court *suo motto* issued contempt notice to the respondents No.1 to 5 and directed them to appear and show cause why the contempt proceedings may not be initiated against the respondents within two weeks from the

date of order. Against the said order, the government preferred a writ appeal in W.A.No.936 of 2016 before the Division Bench of this Court and the same was disposed of by the Division Bench on 28.09.2016 by setting aside the order dated 07.09.2016 in WPMP No.26784 of 2016 and consequently directing this Court to hear on its merits after taking into consideration of the averments in the counter-affidavit.

The respondents have relied on receipt dated 17.11.1955 for Rs.200/- said to have been issued by Sri Shivram and another document is a letter dated 10.08.1956 addressed to the Director, Social Welfare Department acknowledging the amount received Rs.3,000/- by the wife of P.Shivram. Except these two documents, there is nothing on record to show that Sri M.R. Krishna purchased the land from the owner. The alleged documents are fabricated and not a valid document. It is frivolous to contend that Sri M.R.Krishna had purchased the land without any proper sale document. If the said Krishna really purchased the land, he definitely ought to have been in possession of the land and the land ought to have been mutated in his name immediately. But no proof is filed to evident the same. If said Krishna purchased the land, the name of M.R.Krishna should reflect in the revenue records. However, none of the revenue records show the name Sri M.R.Krishna, so called purchaser according to the respondents, in the pattadar columns of any one of the revenue records from the beginning. The alleged purchased of land by the said M.R.Krishna is not supported with any valid document of title in his favour.

Therefore, the alleged donation of the land by Sri M.R.Krishna is not valid under the eye of law.

It would not be out of place to mention here that under Section 3(e) of the Land Acquisition Act, 2013 'appropriate Government' means in relation to acquisition of land in respect of a public purpose in a District, Collector of such District shall be deemed to be the appropriate government. Respondent No.2-District collector, R.R District was the party to the writ petition filed by the petitioner in W.P.No.20371 of 1997 and as such it cannot be said that the State was not a party to the said proceedings and the common order dated 26.11.2001 in the aforesaid writ, is not binding on the respondents.

I have no hesitation to say that M.R.Krishna, Member of Parliament used his influence over the revenue officials and created a false proceedings to show once again that he relinquished the land in favour of the Government for the land to which he is not a registered pattadar at all. All attempts were made by M.R.Krishna to make over himself to have better title over the land for the sake of he and his followers including his kith and kin who unlawfully made encroachments and Government remained as a mere spectator. Moreover, indirectly extended helping hand to the anti-social elements instead of supporting the real owners and pattadars, the petitioner herein, who succeeded to the subjected lands. The petitioner is a poor man and does not have any political support whatsoever. He is not in a position to face the illegal challenges made with the mighty force and under the influence of the then Member of Parliament Sri M.R.Krishna and Mr Jeevakan,

Ex-chairman of the Municipality. The said Krishna wanted that the assignment certificates to be issued to the persons who have illegally constructed houses in the land in Sy nos.196 and 197 of Yapral village so that they can have some title to the land they have encroached. However, he could not succeed because the law of the land do not permit. The Mandal Revenue Officer (MRO), Malkajgiri acted according to the whims and fancies of the M.R.Krishna and issued false proceedings No. B/6574/1988 dated 25.03.1989, accepting the surrender of Ac 9.00 gts land in Sy No.197 and again changed his version and modified the extent to Ac 7.00 gts issued another proceedings dated 08.08.1989 with the same proceedings No. B/6574/1988 accepting the relinquishment for only Ac 7.00 gts of land.

It is very strange that the said M.R. Krishna filed writ petition in W.P.No.26697 of 1998 before this Court, wherein he made District collector, R.R. District, RDO Cevalla Division, MRO, Malkajgiri and Hyderabad, Metro Water and Severage Board, Hyderabad represented by its Director as respondents claiming the ownership of the land to an extent of Ac 9.35 gts in Sy.No.197 situated at Yapral village alleging that respondent authorities high-handedly and without any authority of law have been interfering with his peaceful possession and enjoyment of subject land and it has been denied by the respondents. However, this Court vide order dated 17.12.1998 dismissed the writ petition directing him to invoke the private law remedies as the petition under Article 226 of the Constitution of India cannot be converted into a suit. Against

the said order, he further filed writ appeal in W.A.No.205 of 1999 which was also dismissed on 18.02.1999, which attained finality.

Neither the Government nor M.R.Krishna is able to show a valid title in respect of the subject land. On the other hand several sale transactions have taken place as per the statement of the Encumbrance on property dated 05.10.2016 in Sy Nos.196 and 197 of Yaprall village during the past 34 years period i.e., w.e.f 01.04.1982 to 04.10.2016 without the government or M R Krishna being a party to the said sale documents numbering about 46 as informed by the petitioner. The MRO proceedings No.B/6574/1988 dated 08.08.1989 are not valid under law and it is not binding to the petitioner. Thus, the respondents have willfully and deliberately failed to implement the common order of this Court passed in W.P.No.20371 of 1997 and 17811 of 2001 dated 26.11.2001, which amounts to contempt and they are liable to be punished in accordance with law in appropriate proceedings.

It is pertinent to mention here that this Court vide order dated 26.11.2001 in WP No.20371 of 1997 & 17811 of 2001 opined as under :

“In the instant case, admittedly, no such documents are forthcoming to show as to how the land in question became the government land. The fact remains that the land has been assigned to various persons and they have raised structures and they have been staying there for the last several years. The learned counsel for the 3rd respondent society though contend that the land has been purchased by the society and that the sale deeds are with the Government, that cannot be accepted for the reason that the government itself submits that the land was treated as a sarkari land and the assignments were made in favour of the members of

the 3rd respondent society. Obviously, it has to be held that the members of the 3rd respondent society are not the purchasers and that they are only beneficiaries of the assignments alleged to have been made by the Government after treating the land in question as a Government land. Moreover the stand of the association was rejected by the Joint Collector and no challenge was made by the society. It is also stated in the counter that some more land is available but in view of the fact that the land was allowed to be allotted to various persons by the Government even though it has no right and that further process has already been initiated for allotment of vacant land, the situation cannot be retrieved but it has to be only salvaged keeping in view the interest of the beneficiaries as also the interest of the petitioner who cannot be deprived of his land without recourse to law. When once the Government claims that it is a government land without there being any valid documentary proof, the necessary recourse it should follow from the events is that it should first acquire the land before it makes allotment to others. But, in the instant case, a retrograde step was taken by the government. Having allowed the land to become Abadi, it will not be permissible to the Joint Collector to say that the land is not covered by the provisions of the Act since it has become Abadi.

Another ground that is raised by the respondents is that there are clear latches on the part of the petitioner and that he cannot approach the authorities after long lapse of time. But, this is to be noted that since the Government itself has stated that it has treated the land in question as a Government land and allotted the same to various others, the question of delay becomes immaterial and the Government is bound to come to the rescue of the petitioners as well as the beneficiaries. Since this Court found that it is not possible to restore the land in favour of the petitioner, the only alternative that can be culled out from the events is that the government should acquire the land by initiating necessary proceedings under the Land Acquisition Act in respect of the land held by the petitioner's father to which the petitioner succeed."

Thus, the issues raised by the respondents on delay or otherwise have already been answered by this Court vide order dated 26.11.2001 as noted above. Therefore, there is no necessity to record opinion again in the present case. In addition, during the arguments in this petition, the respondents sought to time to verify the antecedents of the petitioner. The counsel for the petitioner and provided the name and addresses of family members of the petitioner including his brother staying at Bhopal (M.P). However, the respondents could not brought any material on record against the petitioner.

It is important to note that this Court in the aforesaid order also opined that it is not possible to restore the land in favour of the petitioner, the only alternative that can be culled out from the events is that the Government should acquire the land by initiating necessary proceedings under the Land Acquisition Act in respect of the land held by the petitioner's father to which the petitioner succeed and the same has been allowed to encroach by the Government.

In view of the facts and circumstances recorded above and for substantial justice, this Court is hereby direct as under:

- i) the respondents shall not dispossess and interfere with the peaceful possession and enjoyment of the petitioner over the vacant land available in Sy.No.197 situated at Yapral Village, Malkajgiri Mandal, Ranga Reddy District, Hyderabad;
- ii) the respondents are directed to initiate proceedings under the Land Acquisition Act 30 of 2013 by acquiring the land under Sy No.196 situated at Yapral village,

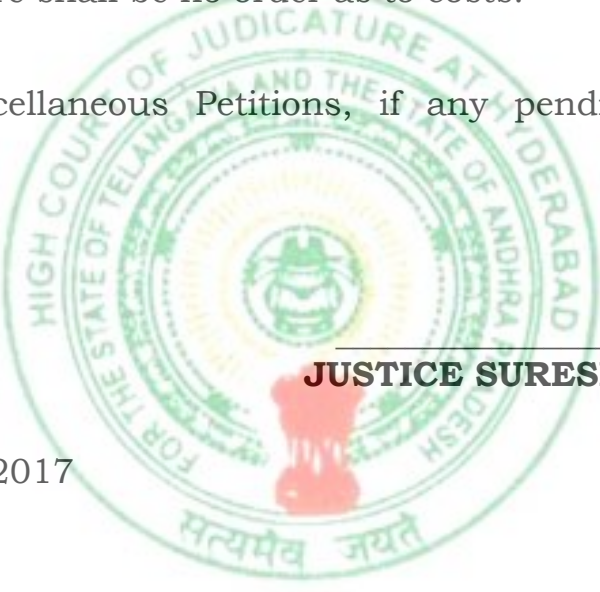
Malkajgiri Mandal, Ranga Reddy District, which is under encroachment, and compensation shall be paid in favour of the petitioner;

- iii) the respondents shall complete the aforesaid exercise within a period of three (03) months from the date of receipt of a copy of this order;
- iv) Failing which, the respondents shall be personally held liable for all the consequences.

With the above directions, this Writ Petition is allowed.

There shall be no order as to costs.

Miscellaneous Petitions, if any pending, shall stand closed.



JUSTICE SURESH KUMAR KAIT.

Date: - -2017

AVS/gvl