

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Ms. JUSTICE J. UMA DEVI

Writ Appeal No.941 of 2017

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in W.P. No. 20140 of 2011 dated 9.3.2017. The 1st respondent in this appeal filed W.P. No. 20140 of 2011 to call for the records of the Joint Collector, Chittoor in proceedings dated 4.7.2009 and to quash the same as being arbitrary and illegal.

Facts, to the limited extent necessary, are that the 1st respondent-writ petitioner was assigned DKT patta dated 8.7.1987 for an extent of Acs. 2.62 cents in Survey No. 88/2 of Thonduru Village, Varadiahpalem Mandal, Chittoor District. The 10th respondent in the Writ Petition, who is her son, was assigned a separate extent of Acs. 2.59 cents in Survey No. 88/1, and Acs. 2.37 cents in Survey No. 89/2 of the same village. These lands were notified by the Government of Andhra Pradesh as a Special Economic Zone for establishing an industrial park. Respondent Nos. 2 to 5 in this appeal (Respondent Nos. 6 to 9 in the writ petition) claim to have purchased the subject lands from the 6th respondent herein (10th respondent in the writ petition). The unofficial respondents in the writ petition filed W.P. No. 17249 of 2007, with respect to the land assigned to the 1st respondent-writ petitioner, to declare the action of the appellants herein in not paying compensation to them as arbitrary and illegal. The 1st

respondent-writ petitioner, her husband and the 6th respondent herein were also parties therein.

A learned Single Judge of this Court disposed of W.P.No.17249 of 2007, by order dated 16.9.2008, directing the District Collector to examine the respective claims of all the parties; decide whether assignment was granted to Poornanandam (from whom the unofficial respondents herein claim to have purchased the subject land); and whether such a transaction was in conformity with the provisions of Act 9 of 1977. The learned Single Judge observed that, if the District Collector found that the assignment was granted in favour of Sri Poornanandam and purchase of the property by the petitioners therein was not in violation of Act 9 of 1977, then they would be entitled to receive compensation; and, if on the other hand, the District Collector came to the conclusion that respondent Nos. 6 and 7 (Smt. P. Mohanamma and her son P. Dhanakoti) were the lawful assignees, then they were entitled to receive compensation. The learned Single Judge had left it open to the aggrieved party to approach the Civil Court of competent jurisdiction by way of a Civil Suit.

Thereafter, by proceedings dated 29.9.2008, the Tahsildar resumed the land. In the order of resumption, he observed that *ex gratia* would be paid as per G.O. Ms. No. 1307 dated 23.12.1993 in accordance with the decision in W.P. No. 17249 of 2007 even though the writ petition was not pending on the date on which he passed the order. The Tahsildar rejected the contention of respondent Nos. 2 to 5 herein (respondent Nos. 6 to 9 in the writ

petition) that the land, which had been assigned to Smt.P.Mohanamma and her son, was earlier assigned to Sri Poornanandam; and that Sri Poornanandam had sold the land to the 10th respondent, who then sold it to these individuals.

In the order under appeal, the learned Single Judge observed that there was no record of any assignment of land in favour of Sri Poornanandam in the impugned order of resumption; while the assignment granted in favour of Smt. Mohanamma was in 1987, respondent Nos. 2 to 5 in this appeal (respondent Nos. 6 to 9 in the writ petition) had contended that the subject land was assigned to Sri Poornanandam on 6.8.1988 which was subsequent in point of time to the assignment granted in favour of the 1st respondent-writ petitioner dated 8.10.1987; and without cancelling the assignment, made in favour of the 1st respondent-writ petitioner, no assignment could have been granted in favour of Sri Poornanandam. The learned Single Judge observed that, in the absence of any material, the finding that the writ petitioner had alienated the subject land was liable to be set aside. The learned Single Judge further observed that the appellants contention that ex gratia would be paid, as per G.O. Ms. No. 1307 dated 23.12.1993, was not tenable in view of the Larger Bench Judgment of this Court in **LAO-cum-Revenue Divisional Officer, Chevella Division and Others vs. Mekala Pandu and others**¹ wherein it was held that, if the assignee of the land was deprived of the land by the State, such assignee would be entitled to compensation at market value. The learned Single Judge directed

¹ 2004 (2) ALT 546

the appellants herein to pay compensation to the 1st respondent-writ petitioner at the prevailing market rate as on 29.9.2008, instead of ex gratia, within a period of twelve (12) weeks from the date of receipt of a copy of the order.

Before us, the learned Government Pleader for Revenue (Assignment) would contend that it is only if the land is resumed for a public purpose would the assignee be entitled for compensation in terms of the law declared by the Larger Bench in **Mekala Pandu**¹; in the present case, the assignment was cancelled, and the land was resumed, as the 1st respondent-writ petitioner had violated the conditions of assignment; and the learned Single Judge had, therefore, erred in directing payment of compensation at the market value to the 1st respondent-writ petitioner.

We must express our inability to agree. In the order passed by the Tahsildar dated 29.9.2008, except for a bald reference to Condition No. 10(17), no finding has been recorded therein that the 1st respondent-writ petitioner had alienated the subject land. Having held that the unofficial respondents had claimed to have purchased the land from Sri Poornanandam who was not the assignee, and it was the 1st respondent-writ petitioner who was assigned the subject land, the assignment could only have been cancelled for violation of the conditions of assignment if Smt. Mohanamma had alienated the subject land contrary to the conditions of assignment. No finding has been recorded by the Tahsildar, in his order dated 29.9.2008, that the 1st respondent-writ petitioner had alienated the subject land. The contention of

the learned Government Pleader that the subject land was resumed for violation of the conditions of assignment, and not for a public purpose, is therefore not tenable. As has been noted in the order itself, the Government had resumed the subject land for the development of infrastructure. As such resumption is for a public purpose, the assignee is entitled for *ex gratia*, on the land assigned in her favour being resumed. While the Tahsildar has, no doubt, held that *ex gratia* would be paid in terms of G.O. Ms. No. 1307 dated 23.12.1993, the learned Single Judge has rightly observed that, in the light of the law declared by the Larger Bench of this Court in **Mekala Pandu**¹, the assignee was entitled to be paid compensation as per the market rate prevailing on the date of resumption of the land. In an intra-Court appeal, under Clause 15 of the Letters Patent, interference is justified only if the order under appeal suffers from a patent illegality,. We find no such infirmity in the order under appeal.

The writ appeal fails and is, accordingly dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(J. UMA DEVI, J)

22nd August, 2017

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