

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Ms. JUSTICE J. UMA DEVI

Writ Appeal No. 170 of 2002

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**Writ Petition Nos.5534 and 5122 of 1991, 2074 and 15198 of 1992,
17333 of 1993, 31749 of 1998, 9491 of 2001 and 16043 of 2002**

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

A larger Bench of this Court, in its order dated 9.3.2004 in W.A. No.170 of 2002 (**Land Acquisition Officer-cum-Revenue Divisional Officer, Chevella Division vs. Mekala Pandu**), held that assignees of government lands were entitled to payment of compensation equivalent to the full market value of the land and other benefits on par with full owners of the land, even in cases where possession of assigned lands was taken by the State in accordance with the terms of the grant or patta, and though such resumption was for a public purpose; even in cases where the State did not invoke the covenant of the grant or the patta to resume the land for such public purpose, and resorted to acquisition under the provisions of the Land Acquisition Act, 1894, the assignee was entitled to compensation like owners of the land, and for all other consequential benefits under the provisions of the Land Acquisition Act, 1894; and no condition, incorporated in patta/deed, would operate as a clog putting any restriction on the right of the assignee to claim full compensation as an owner of the land.

In terms of the larger Bench Judgment in **Mekala Pandu**, when assigned land is resumed by the Government for a public purpose, then the assignee, notwithstanding any condition to the

contrary incorporated in the assignment deed or patta, is entitled to full market value, as owners of the land are entitled to under the Land Acquisition Act, 1894 (hereinafter called the “1894 Act”) as on the date of resumption. Likewise, in cases where the Government has initiated proceedings under the Land Acquisition Act, 1894 for acquisition of these assigned lands, the assignees are entitled for compensation in terms of the provisions of the 1894 Act.

The law declared by the Larger Bench in **Mekala Pandu** applies only in cases where the land has been resumed by the Government in terms of the conditions stipulated in the assignment deed or patta. In cases where the assignment patta is cancelled for violation of the conditions of assignment, the said judgment would have no application as the Government cannot, in such cases, be said to have resumed the land, or acquired it, for a public purpose; and proceedings for cancellation of the assignment has been initiated in terms of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (Act 9 of 1977). Such proceedings, for cancellation of the assignment, should have been taken before the Government resumes the land, and not thereafter, as the provisions of Act 9 of 1977, and the Rules made thereunder, require both the assignee, and the person to whom the assignee has transferred assigned land, to be put on notice, to be given an opportunity of being heard, and only thereafter for an order, cancelling the assignment, to be passed in accordance with law.

The respondent-officials cannot be heard to contend that, despite having resumed the land without initiating proceedings for cancellation of the assignment for violation of its conditions, the Government would, nonetheless, be entitled to initiate proceedings for cancellation of the assignment, after having resumed the subject land for a public purpose. It is only in cases where the subject lands are in possession of either the assignee, or the person in whose favour the land has been transferred by the assignee, can proceedings be initiated for cancellation of the assignment.

While in certain cases, assigned lands have been resumed, in certain others, the respondent-officials claim that the subject lands still continue to remain in possession of the assignees/transferees; the Government has dropped the proceedings initiated earlier under Section 4(1) of the 1894 Act; and they intend to initiate proceedings for cancellation of the assignment.

Suffice it to make it clear that, in all such cases, where assigned land has not been resumed and is still in the possession of the assignee, or the transferee of assigned land, and the officials concerned intend initiating proceedings for cancellation of the assignment, it is open to them to do so after putting the assignees and the transferees on notice, and after giving them an opportunity of being heard.

In all those cases where the subject lands have been resumed for a public purpose, without initiating proceedings under the 1894 Act, the respondents shall pay the petitioners

(assignees) compensation equivalent to what they are entitled to under the 1894 Act as on the date of resumption of their land. In cases where land acquisition proceedings have been initiated, the respondents shall pass an award and pay compensation to the assignees in accordance with the provisions of the relevant enactments (either the 1894 Act or the 2013 Act) depending on whether or not the preliminary notification, for initiation of acquisition proceedings, has been issued prior to or after 1.1.2014. In any event, the compensation, which the assignees are entitled to, shall be paid to them within three months from the date of receipt of a copy of this order.

The writ appeal and the writ petitions are, accordingly, disposed of. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(J. UMA DEVI, J)

28th August, 2017
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