

000THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE T.RAJANI

Writ Appeal No.1190 of 2005

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.11799 of 2005 dated 07.06.2005. The proceedings under challenge in the writ petition was the order passed by the Joint Collector, Nellore, in May 2005, in a revision petition filed by the appellant-writ petitioner.

The Joint Collector, after examining all the contentions, observed that while the land was, no doubt, assigned to the appellant-writ petitioner, as he was a Member of the Gandhi Girijan Harijana Horticulture Joint Forming Society during 1968, the said land was kept vacant; the subject land admeasuring Ac.0.50 cents was not occupied by anyone; it was like a pond filled with drainage and rain water with a depth of 5 feet; it was kept vacant; the land allotted to the appellant-writ petitioner was neither re-claimed nor was any construction made thereupon; the Mandal Revenue Officer, Nellore had also reported that the Gunta (pit) was levelled upto basement and foundation was also laid for the building for Dr.B.R.Ambedkar Bhavan; a compound wall also was constructed around the site by the Executive Engineer, District SC Society, Nellore during April 2000; and, it was under the possession of the Deputy Director, Social Welfare, Nellore. On the ground that the appellant-writ petitioner had failed to bring the land under cultivation and a residential house was constructed in the disputed land, the order of the Revenue Divisional Officer, Nellore, resuming the land, was affirmed.

In the affidavit filed in support of the writ petition, the appellant-writ petitioner claimed that a bypass road was laid in the year 1993 on

the upper side of the house and cultivation land; rain water and drainage water from upper side has been flowing towards his lands under cultivation; it was causing great inconvenience to him for growing vegetables, also due to stagnation of water; he had submitted a representation to the Chief Minister, marking a copy thereof to the respondents; in response thereto, the District Collector, Nellore, vide his letter dated 23.05.1997, informed the Superintending Engineer, R&B, Nellore for necessary action to be taken on the petitioner's representation; he has been facing problems during rainy season; and there was no such stagnation of water now in the subject lands.

Sri J.Satya Prasad, learned counsel for the appellant-writ petitioner, would submit that the representation, submitted by the appellant-writ petitioner, three years prior to the order of resumption, was not even considered; and the finding recorded by the Joint Collector in the impugned order, that the appellant-writ petitioner had not raised any cultivation, is without any basis.

Learned Government Pleader for Assignment (AP) would submit that the subject land has been allotted to the A.P. State Scheduled Caste Corporation for construction of the Dr.B.R.Ambedkar Bhavan; while the appellant-writ petitioner had questioned the proceedings whereby the land was resumed, the A.P. State Scheduled Caste Corporation has not been arrayed as a respondent in the writ petition; the writ petition was liable to be dismissed for non-joinder of necessary parties; and the finding of fact, recorded in the order of the Joint Collector, does not necessitate interference.

The subject lands were assigned to the appellant-writ petitioner for the purpose of cultivation. While the finding recorded by the Joint Collector is that no cultivation was made on the subject land, and a pond had formed thereupon, the appellant-writ petitioner claims that he had

represented, three years prior thereto on 23.05.1997, of the circumstances in which water had accumulated on the subject land during the rainy season; and that he was, otherwise, cultivating the subject lands. This fact does not appear to have been considered by the Joint Collector. The fact, however, remains that the subject lands have already been allotted to the A.P. State Scheduled Caste Corporation for the purposes of constructing a Dr.B.R.Ambedkar Bhavan.

Sri J.Satya Prasad, learned counsel for the appellant-writ petitioner, submits that no building has been constructed on the subject land, and only a compound wall has been raised thereupon. In such circumstances, we consider it appropriate to direct the Joint Collector to re-examine the appellant-writ petitioner's representation, in accordance with law, after considering the objections which he claims to have submitted on 23.05.1997, and pass an order afresh. The order, impugned in the writ petition, is set aside. Any order which the Joint Collector may pass afresh shall be only after the A.P. State Scheduled Caste Corporation is put on notice, and is also given an opportunity of being heard. *Status quo*, in all respects, shall be maintained till a fresh order is passed by the Joint Collector and is communicated to all the parties concerned.

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.

(RAMESH RANGANATHAN, ACJ)

(T.RAJANI, J)

22nd June, 2017
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**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
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Writ Appeal No.1190 of 2005

Date: 22.06.2017

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