

HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

WRIT PETITION No.25403 OF 2008

ORDER:

The petitioner's husband by name Bathula Subba Rayudu was assigned an extent of Ac.5-19 cents in Sy.No.1004/1, Chinna Chowk Village, Kadapa Mandal & District vide proceedings in DKT 350/76, dt. 16.8.1967 issued by the then Tahsildar, Kadapa Mandal (6th respondent).

2. Thereafter, 6th respondent also issued sanction orders on 24.8.1967 in respect of the said assignment in favour of the petitioner's husband. He also issued pattadar pass books in respect of the land.

3. Petitioner's husband brought the same into cultivation. He also paid land revenue from 1379 to 1381 Fasli. The petitioner's husband approached the B.C. Corporation for financial aid under B.C. Scheme for development and cultivation of assigned land and at that time the said Corporation insisted the petitioner's husband to produce new pattadar pass books in respect of the land.

4. The petitioner and her husband then approached revenue authorities for issuance of pattadar pass books, and ultimately made a request to the District Collector, Kadapa for issuance of the same.

5. Nothing happened and hence they approached the Member of Legislative Assembly, Kamalapuram for issuance of new pattadar pass books and title deed.

6. At that time 6th respondent produced an Endorsement Letter SDT/56/99, dt. 26.2.1999 stating that the land assigned to the petitioner had already been resumed to the Government vide proceedings in Rc.No.B10/1447/88, dt. 28.2.1988 and was alienated in favour of

N.G.O's Cooperative House Building Society, Kadapa and that Pattadar Pass Books and Title Deeds cannot be issued for the said land.

7. No notice was issued to the petitioner or her husband and no enquiry was conducted before the alleged resumption of the land. The petitioner's husband then preferred Appeal before the Revenue Divisional Officer, Kadapa, the 5th respondent herein, in June, 1999, but he did not pass any orders.

8. The petitioner's husband then filed W.P. No. 14887 of 1999 challenging the action of the respondents in resuming the land assigned to him pursuant to proceedings Rc.No.B10/1447/88 dt. 28.2.1988 as informed by Endorsement Letter SDT/56/99, dt. 26.2.1999 of the 6th respondent.

9. On 15.7.1999, this Court granted interim direction in the said writ petition not to dispossess the petitioner therein from the assigned land.

10. Ultimately the said writ petition was dismissed on 7.6.2000 directing the appellate authority to dispose of the appeal expeditiously.

11. Even thereafter, appeal was not disposed of by the 5th respondent, forcing the petitioner to file W.P. No.26298 of 2001. On 26.12.2001 this Court directed the 5th respondent to dispose of the appeal filed by her husband within eight weeks.

12. Ultimately, 5th respondent passed orders in Rc.E/1256/99, dt. 25.2.2004 rejecting the appeal. The 5th respondent observed that the land has been resumed pursuant to Collector's Order in Rc.B10/1447/88, dt. 28.2.1988, that the same was informed to the petitioner at the time when W.P.No.14887 of 1999 was filed and she ought to have obtained certified copy of that order and appealed to the

Chief Commissioner of Land Administration, Hyderabad. He held that since this land was alienated and handed over to NGO's Cooperative House Building Society, Kadapa vide G.O.Ms.No.616, Revenue Department, dt. 9.8.1994 and the society subsequently distributed to all its members, now the land was not freely available.

13. The petitioners then approached the District Collector, Kadapa to furnish copy of proceedings in B10/1447/88, dt. 28.2.1988, but he issued Endorsement F. Dis. (E2) 704/04, dt. 16.3.2004 stating that the proceedings cannot be furnished since connected records were submitted to this Court in W.P. No.9352 of 2000 filed by Sri P. Ramesh Babu and A. Venkata Ramana of Chinna Chowk Village, Kadapa.

14. The petitioner then filed an appeal on 16.3.2004 to the Chief Commissioner of Land Administration, A.P., Hyderabad, against the orders of the Revenue Divisional Officer, Kadapa in Rc. E/1256/1999, dt. 25.2.2004.

15. The Chief Commissioner of Land Administration, A.P., Hyderabad passed orders in CCLA's Ref. No.BCW5/131/2004, dt. 22.4.2004 directing the petitioner and her husband to approach the Joint Collector, Kadapa against the orders of Mandal Revenue Officer, Kadapa.

16. The petitioners then approached the Joint Collector, Kadapa and filed a Revision against the order dt. 25.2.2004 of the order of Revenue Divisional Officer, Kadapa.

17. Pending the said revision, the petitioner's husband died on 27.12.2004.

18. The Joint Collector, Kadapa rejected the revision petition by proceedings in R.Dis (E2) 1979/2004, dt. 18.5.2006 stating that though

the land was in fact assigned to the petitioner's husband, again it was erroneously assigned to one S. Md. Khasim vide DKT/350/76, dt. 16.8.1967, and that the said land had been resumed to the Government on 2.11.1984 for violation of patta conditions and was subsequently alienated to the District NGOs Cooperative House Building Society, Kadapa on payment of market value by the Tahsildar, Kadapa and possession was also delivered on 10.2.1999.

19. Against this order, the petitioner again approached the Chief Commissioner of Land Administration, A.P, Hyderabad. He passed orders in BCW5/469/2007, dt. 22.1.2008 remanding the matter back to the Joint Collector for fresh enquiry and directed the petitioners to file documentary evidence.

20. Thereafter, the Joint Collector, Kadapa vide proceedings in R. Dis. (E2) 4300/2007, dt. 23.6.2008 dispose of the revision petition holding that the land in an extent of Ac.5.19 cents in Sy.No.1004/1 of China Chowk village was assigned to the petitioner's husband Sri B. Subba Rayudu, but the then Revenue Inspector submitted a report to the Tahsildar, Kadapa on 2.10.1984 stating that the land was assigned to S. Md. Khasim and recommended for cancellation for violation of DKT conditions, and that the said S. Md. Khasim had not claimed any right in the land so far.

21. Vexed with this attitude of the respondents, the petitioners filed the present writ petition to set aside the resumption order in Proceedings B1/2712/84, dt. 2.11.1984 issued by 6th respondent insofar as resumption of land to an extent of Ac.5-19 cents in Sy.No.1004/1 of Chinna Chowk Village, Kadapa Mandal & District and for restoration of the land to her.

22. In the counter-affidavit, none of the above facts are disputed. But, it is stated that the Tahsildar, Kadapa had issued notice to all the DKT pattadars, whose lands were resumed by the Government for alienation to N.G.O's Cooperative House Building Society, Kadapa; that the petitioner's husband was one of such DKT pattadars, but could not be served notice and such notices were served by affixing to sticks on their respective lands as an alternative method. It is stated that the disputed land was resumed to the Government on 2.11.1984 and alienated in favour of NGO's Cooperative House Building Society on 9.8.1994 and possession was handed over on 10.2.1999. It is stated that the petitioner's husband did not do anything in the intervening 15 years, that the petitioner's husband has failed to produce any documentary evidence to prove that the disputed land was assigned to him; that Chinna Chowk village of Kadapa Mandal was since amalgamated into Kadapa Municipal corporation, that the land is converted into plots for house sites and there is no suitable Government land available for agricultural purpose in Municipal Corporation limits and so it is not possible to allot any alternative land to the petitioner. It is stated that as an alternative payment of compensation for developments made by husband of the petitioner on the date of resumption in terms of G.O.Ms.No.43, Revenue (B) Department, dated 23.1.1988 can be considered.

23. The facts narrated above indicate a very disturbing trend in depriving landless poor assignee who was alienated the land admittedly of Ac.5-19 cents in Sy.No.1004/1 of Chinna Chowk Village vide proceedings in DKT No.350/76, dt. 16.8.1967 of 6th respondent. Having deprived him of the said land without any notice and without any enquiry, the proceedings of 6th respondent vide reference in B1/2712/84,

dt. 2.11.1984 mentioned that the land in question belongs to one S. Md. Khasim, but not the petitioner's husband.

24. Before passing such order, notice appears to have been affixed in the land by means of sticking. This method of service of notice on a party has been held to be invalid by this Court in its order dated 22.6.2016 in W.P. No.33312 of 2012 following a decision of this Court in ***Dodda Narasimhaiah v. District Collector***¹.

25. After this order is passed by the Tahsildar, it is alleged that the land was resumed by the Government through Collector's Proceedings in B10/1447/88, dt. 28.2.1988 and it was alienated in favour of NGOs Cooperative House Building Society, Kadapa and handed over to the said society 10.2.1999.

26. The petitioner's husband moved against the State in different forums to seek restoration of the land. In spite of the fact that the assignment of the land to the petitioner's husband was accepted by the Joint Collector, Kadapa in proceedings in R.Dis. E2/4300/07, dt. 23.6.2008, it was stated that the Tahsildar, Kadapa was misled by the report of Revenue Inspector that the land was assigned to one S. Md. Khasim and not to petitioner's husband, that the said error caused cancellation of assignment of land to the petitioner's husband and its resumption by the Government without any fault on the part of the petitioner's husband and the petitioner.

27. Gross injustice has been done to the petitioner by the respondents in not rectifying this in spite of order dt. 26.2.2008 of the Joint Collector, Kadapa that the assignment was made to the petitioner in 1967 and that resumption order was passed behind his back. However, since respondents have indeed taken the land admeasuring

¹ Manu/AP/0405/2007

Ac.5-19 cents in Sy.No.1004/1 of Chinna Chowk Village of Kadapa Mandal, since it merged with Kadapa Municipal Corporation it is not possible to restore the said land since it was already assigned to Kadapa District NGO's Cooperative House Building Society on payment of market value without considering paying compensation to the petitioner pursuant to G.O.Ms.No.43, Rev. (B) Department, dated 23.1.1988.

28. In my considered opinion since the land was assigned to petitioner's husband and the assignment was cancelled behind his back, petitioner and her husband were forced to approach various revenue authorities including this Court right from 1999 till filing of this writ petition several times. So the respondents cannot be allowed to get away by merely offering to pay compensation to the petitioner for the said land pursuant to above G.O.

29. In ***Land Acquisition Officer-cum-R.D.O., Chevella Division, Hyderabad and others v. Mekala Pandu and others***², larger bench of this Court held that assignees of Government lands are entitled to payment of compensation equivalent to full market value of the land in case Government wishes to resume the land. This was reiterated in G.O.Ms.No.259, Revenue (Assn.I) Department, dated 21.6.2016.

30. For the aforesaid reasons, this Writ Petition is allowed; the respondents are directed to pay compensation to the petitioner for the land to extent of Ac.5-19 cents in Sy.No.1004/1 of Chinna Chowk Village, Kadapa Mandal & District as per the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. They shall determine the compensation treating the land as having been acquired today, and pay the same within

² 2004 (2) ALD 451 (L.B.)

twelve weeks from the date of receipt of a copy of this order.
Respondents shall also pay costs of Rs.25,000/- to the petitioner.

As a sequel, miscellaneous petitions if any pending in the Writ
Petition shall stand closed.

M.S. RAMACHANDRA RAO,J

Dt. 08.02.2017
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