

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.13781 of 2003

ORDER:

Heard the learned counsel for the petitioner, learned Government Pleader appearing for respondents 1 to 4, 6 and 7 and learned counsel for respondents 8 to 12 and 13.

2. This is an unfortunate case, which is pending before this Court arising out of an order in improper exercise of power by the 2nd respondent and confirmation of the same by the 1st respondent.

3. The facts of the case, as stated by the petitioner, are that an extent of Ac.30.00 of land situated at Anakapalli, popularly called as Venkateswara Bagh (Poolbagh) in Survey No.66, T.D. No.3274 originally belongs to Smt Vairicharla Ranichandramani W/o Narayana Gajapati Raja Bahaddur of Chemudu Estate. Ranichandramani executed a Will on 20.07.1957 bequeathing the said property along with property in T.S.No.106 of Block 2 of Maharani Peta Ward in favour of the temple situated at Ambica Bagh, Visakhapatnam.

The 5th respondent, who died during pendency of the present Writ Petition, claimed that he purchased the property under sale deeds from Smt Rani Kamaladevi, D/o Vairicharla Ranichandramani in the year 1982. The said claim is disputed by the petitioner.

4. There is no dispute that the schedule property is an Inam land belonging to Rani Chemudu Estate. The Inams were

abolished under the provisions of A.P (Andhra Area) Abolition of Inams and Conversion into Ryotwari Act, 1956 (for short, 'the Act'). Consequent to abolition of Inams, the 5th respondent claimed that his vendor obtained a patta, whereas the temple is claiming a patta by virtue of bequeathing of property under the Will, dated 20.07.1954. In view of claim of the 5th respondent, the temple assumed that the 5th respondent is an encroacher. But, in order to establish its title to the property, moved an application before the 4th respondent for grant of patta in favour of the temple by arraying various respondents including the 5th respondent and the matter was pending before the 4th respondent. Notices were issued to all the respondents for conducting enquiry under Section 3 of the Act. When the matter was pending, the 5th respondent moved an application before the 2nd respondent claiming that the 4th respondent has no jurisdiction as he purchased the land from a patta holder and there cannot be any further adjudication of the rights of the petitioner. The application of the 5th respondent was allowed by the 2nd respondent by order, dated 25.10.1999, by holding that the enquiry under the provisions of A.P (Andhra Area) Abolition of Inams and Conversion into Rayatwari Act, 1956, was already conducted as reported by Mandal Revenue Officer, Anakapalli, therefore, re-enquiry under the provisions of the said enactment does not arise. When the petitioner preferred revision before the 1st respondent, the 1st respondent confirmed the order of the 2nd respondent by order, dated 19.05.2003, holding that the decision under Section 3 (3) of the Act was already taken by the 4th respondent, Anakapalli on 29.03.1960 holding that an extent of Acs.29.71 cents in OS No.1275 and RS No.66 covered under TD

No.3274 was held to be an inam land situated in Zaminadari village and not held by an institution and the same was published in the District Gazette, Visakhapatnam on 14.07.1960. It was further held that in view of the same since there were no objections filed against the said decision, it has become final. Challenging the order of the 2nd respondent as confirmed by the 1st respondent, the present Writ Petition is filed.

5. Learned counsel for the petitioner as well as the counsel for respondent No.13 would submit that when the competent authority, the 4th respondent, was seized of the matter pursuant to the application filed by the petitioner, the 2nd respondent should not have exercised his jurisdiction and passed the order. They further submit that confirmation of such an order without jurisdiction by the 1st respondent is bad in law.

6. This Court carefully perused the provisions of the Act. Nowhere, it is provided that the 2nd respondent has jurisdiction to entertain the application of the 5th respondent at the stage when the matter is pending adjudication before the competent authority.

7. While so, all the learned counsel including the learned Government Pleader fairly conceded that the matter can be adjudicated in accordance with law by the 4th respondent and the 5th respondent shall be given an opportunity to file his objections on the basis of material available on record including raising an objection with regard to the tenability of conducting enquiry after conclusion of the earlier enquiry.

8. In view of the same, the Writ Petition is allowed and the orders passed by respondents 1 and 2 are set aside and the matter is remanded to the 4th respondent for conducting an enquiry in the pending petition of the petitioner, in accordance with law, by giving due opportunity to all the parties before him by issuing fresh notices, taking into consideration the documentary and oral evidence adduced by the parties and pass appropriate order in accordance with law within a period of one year from the date of receipt of a copy of this order. This Court, in view of order and remand, is not expressing any view on the merits of the case and the 4th respondent while disposing the case, shall not be influenced by the observations made by respondents 1 and 2 in their orders, but shall consider the case afresh on the basis of material available before him.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

JUNE 8, 2017

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Date: 08.06.2017

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