

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.24461 of 2011

O R D E R:

In this Writ Petition, petitioner has assailed the proceedings No.D4/2654/1988, dt.02.09.1988 passed by the 2nd respondent canceling the assignment of an extent of Acres 3.21 guntas in survey No.300 of Kongara Kalan Village, Ibrahimpatnam Mandal, R.R. District, 37 years after the assignment was made.

2. It is not in dispute that the petitioner's father by name Gopala Krishna Rao died in 1960 and in order to provide sustenance to the petitioner, assignment was made of the above land vide proceedings R.Dis.D.9756/1961 by the then Tahsildar, Ibrahimpatnam. Thereafter, the petitioner cultivated the land along with her mother, brought the land under cultivation and started raising crops. She was also issued Pattadar Pass Book and Title Deeds and revenue records also mutated in her name.

3. In 1998 the 2nd respondent initiated proceedings under Section 166B of the A.P. (Telangana Area) Land Revenue Act 1317 Fasli proposing to cancel the assignment of the above land to the petitioner on the ground that it was irregular, that the petitioner was at the time of assignment a minor, that the assignment was made by a Patwari by name Ratna Rao, who had been suspended from service in 1978, and that the

petitioner got the land because she was related to said Ratna Rao.

4. Explanation was submitted by the petitioner stating that she is the daughter of Gopala Krishna Rao and not related to Patwari. It is stated that the assignment was done on the basis of a recommendation of the Assignment Committee after enquiry and the Patwari, who was only subordinate to the said Committee, implemented the order of the said Committee. She stated that she did not have any other land except the above land and she had invested huge amounts and it is not proper at this point of time to cancel the patta given to her. Reliance was also placed on a judgment passed by this Court on 16.01.1986 in W.P.No.6212 of 1979 wherein this Court had held that even if the assignee is a minor, once she has become a major, it cannot be cancelled.

5. By proceedings No.D4/2654/1988, dt.02.09.1988 the explanation of the petitioner was rejected on the ground that at the time of assignment, petitioner was a minor and observing that the said Patwari abused his power, misrepresented the facts and got assignment of land to his close relatives.

6. Challenging the same, this Writ Petition is filed.

7. Counsel for the petitioner placed reliance on the judgment of this Court dt.16.01.1986 in W.P.No.6212 of 1979 wherein this Court held that even if assignment was made to minors originally, if they become majors subsequently, 19 years after assignment, the assignment cannot be cancelled.

8. The Government Pleader for Revenue appearing for respondents does not dispute this legal position. Also there is no material to show that petitioner was related to the Patwari and assignment was made to her because of such relationship.

9. Though the petitioner was minor at the time of initial assignment in 1961, since the proposal to cancel the same was started in 1998, 37 years later, after the petitioner has become major and had expended considerable efforts and expenditure to bring the land under cultivation, having regard to the above order dt.16.01.1986 in W.P.No.6212 of 1979, the impugned order cannot be sustained.

10. Therefore, the Writ Petition is allowed, the impugned order is set aside.

11. The Government Pleader for Revenue states that the above land of the petitioner was taken over possession and handed over to TSISC.

12. Since the said transfer of land to TSISC was subject to the result of this Writ Petition and since the Writ Petition is allowed, the respondents should either restore the land to the petitioner by taking it back from TSISC or pay market value of the said land to the petitioner as per the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in view of the judgment of the larger Bench in ***Land Acquisition Officer-cum-R.D.O., Chevella Division, Hyderabad and others v. Mekala Pandu and others***¹. This exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

13. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

23rd January, 2017.

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¹ 2004(2) ALT 546 (L.B.)