

HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.3539 OF 2007

Date 07.12.2017

Between:

Jelligampala Nagalakshmi

... Petitioner

AND

Special Deputy Collector (Land Acquisition), Kinnerasani
Project, Bhadrachalam, Khammam and others.

.....Respondents



HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.3539 of 2007

ORDER:

The Writ Petition is filed to declare the proceedings in Rc.No.B/22/07 dated 08.02.2007 of respondent No.3 as illegal and arbitrary.

Brief facts, according to the petitioner, are that, on the application made by his family, the then proprietor of Nugur Estate granted Kabuliyat patta dated 06.01.1961 in respect of Ac.18.61 cents in Sy.No.22 of Nugur Village, presently called as Venkatapuram Mandal, Khammam District and, since then, they are in uninterrupted possession of the subject land. Petitioner states that she is the second wife of late Satyanarayana, and his sister, late Nagaratnam, is the first wife of late Satyanarayana; and after the death of late Satyanarayana, his legal representatives viz. J.Chandra Kaladhar and J. Lakshmipathi, partitioned the subject land and made applications for pattadar pass books and title deeds and were granted pattadar pass books in respect of Ac.9.25 cents each in Sy.No.22.

While things stood thus, the Government issued Section 4(1) notification, for acquisition of land in Sy.No.22 admeasuring Ac.2.59 cents for Kinnerasani Project, in the name of late J.Nagaratnam, but not on the actual cultivators of the land. Thereafter, award was passed and compensation was also paid. Respondent No.3 issued the impugned notice,

in exercise of powers under the A.P. Revenue Recovery Act, 1864, alleging that, as the land in Sy.No.22/1 is a government land, and assuming that petitioner was having patta, compensation of Rs.1,08,000/- was paid for acquisition of the same for Palem Vagu Project. Petitioner alleges that no award has been passed in her name and no compensation was paid to her and, as such, issuing notice under the A.P. Revenue Recovery Act is illegal.

This Court, while admitting the writ petition on 23.02.2007, suspended the impugned proceedings dated 08.02.2007.

Counter affidavit has been filed by the respondents inter alia stating that award was passed in the name of Nagarathnam; and petitioner attended award enquiry, and wrongly deposed that she is Nagalaxmi @ Nagarathnam and received compensation.

Heard the learned counsel for the petitioner and learned Government Pleader for Land Acquisition.

Learned counsel for the petitioner fairly submitted that, even though a plea has been taken in the writ petition stating that respondent No.3 has no jurisdiction or power under the A.P. Revenue Recovery Act to recover the compensation paid under the Land Acquisition Act, 1894, the said issue is no more *res integra* as it has been decided in **K.Pothuraju @ Kalyanam v. Government of Andhra Pradesh**¹.

¹ 1999(3) 473 (DB)

This Court in **K.Pothuraju @ Kalyanam** held that Section 144 CPC would apply to proceedings under the Land Acquisition Act; award passed under the Land Acquisition Act is also a decree; and Section 52 of the A.P.Revenue Recovery Act can be invoked for recovery of amounts paid to claimants in pursuance of award passed under the Land Acquisition Act.

In the circumstances, the Writ Petition is disposed of giving liberty to the petitioner to give explanation to the impugned proceedings dated 08.02.2007 of respondent No.3, and the third respondent shall conduct enquiry, and pass appropriate orders, in accordance with law.

As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

KONGARA VIJAYA LAKSHMI, J

Dt:07.12.2017
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