

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.8995 OF 2007

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed requesting to issue a Writ of Mandamus declaring the action of the respondents in not paying compensation to the petitioner having acquired her land of an extent of Ac.4-71 cents in Survey no.83/1 of Yakerlapalem Village, Mydukur Mandal, Kadapa District, as illegal, arbitrary and against Government orders & law besides being violative of Articles 14, 19, 21 and 31-A of the Constitution of India. A request was also made to direct the respondents to pay compensation to the petitioner for her aforesaid acquired land as per the recommendations of the MRO, Mydukur, in his report, *vide* Ref. no.B.102/2004, dated 24.08.2005.

2. I have heard the submissions of the learned counsel for the petitioner and of the learned Government Pleader for Land Acquisition appearing for the respondents 1 to 3. I have perused the material record.

3. The case of the petitioner is this:

“The entire extent of land of Yakerlapalem Village was acquired in the year 1991 for formation of Ganjikunta Subsidiary Reservoir under Telugu Ganga Project. The entire extent of land of the village and the village submerged in the Ganjikunta Subsidiary Reservoir. The Special Deputy Collector – cum – Land Acquisition Officer/the 2nd respondent (hereinafter referred to as, ‘the LAO’, for brevity) paid compensation to all the persons, whose lands were acquired and submerged in the said Reservoir. However, no compensation was paid to the petitioner in

respect of the subject land by stating that her land is a Government land and that she is a holder of DKT Patta and that, therefore, she is not entitled to any compensation. The petitioner came to know that the villagers of the other village, who are DKT land holders and whose lands were also sub-merged under the same project, were paid compensation on par with the land owners. The petitioner represented to the District Collector and to the LAO to pay compensation for her land, which was submerged under Telugu Ganga Project. The Special Collector, Telugu Ganga Project/the 1st respondent (hereinafter referred to as '1st respondent') called for a proposal for payment of compensation to DKT Pattadars. The LAO submitted a report, dated 03.08.2004, to the 1st respondent with necessary information. He stated in his report as follows:

"The Mandal Revenue Officer, Mydukur has not submitted final reports regarding restoration of land to the assignees, regularization of sale transactions in favour of the purchaser, or resumption to Govt. for the rest of the said DKT lands as per Act 9/77 for taking further necessary action in the matter.

I therefore request that necessary instructions may kindly be issued to the Mandal Revenue Officer, Mydukur for sending final reports, or no objection certificates on the rest of the DKT lands for taking further action regarding submission of exgratia proposals in favour of the DKT land holders to the Special Collector, Telugu Ganga Project, Nellore as per L.A. Act. Photostat copy of remarks furnished by the Mandal Revenue Officer, Mydukur is enclosed herewith for favour of perusal."

[Reproduced verbatim]

The Mandal Revenue Officer, Mydukur, conducted a detailed enquiry on the DKT land holdings and regularized some of the sale transactions of

some of the purchasers, on the grounds that they purchased the lands in good faith, for valuable consideration and without the knowledge that the lands are assigned; and, some of the lands were resumed by the Government, as the DKT Patta holders are not eligible to hold the DKT lands, as per rules. Further, the Mandal Revenue Officer, Mydukur, submitted a detailed report *vide* his letter in Ref. No.B.102/2004, dated 24.08.2005, and requested the LAO to take necessary action to pay the compensation (*ex-gratia*) by enclosing the statement showing particulars of the DKT lands. In that statement, the name of the petitioner was shown against Sl.no.8 in respect of the land in Survey no.83/1 admeasuring Ac.4-71 cents. After the death of the original DKT holder, that is, Kalingiri Gangaiah, father of the petitioner, and her mother, the petitioner being the only legal heir of her parents is in possession and enjoyment of the subject land. The Mandal Revenue Officer, Mydukur, recommended for payment of compensation to her, as she is the only legal heir to the deceased DKT Patta holder. But, so far no compensation is paid. Hence, the Writ Petition is filed.”

4. The case of the respondents, as stated in the counter of the 2nd respondent - LAO, in brief, is this:

“The entire extent of land of the subject village was acquired during the year 1991 for formation of the Ganjikunta Subsidiary Reservoir, under Telugu Ganga Project. It is a fact that no *ex-gratia* has been paid in respect of DKT lands in Sy.no.83/1 of an extent of Ac.4.71 cents of the subject village. *Ex-gratia* was paid to the DKT land holders, whose land was acquired and who produced genuineness certificates from the MRO, Mydukur. The LAO addressed the Tahasildar to submit a detailed report about S.No.83/1 of Yakarlapalem village. The Tahasildar, in his report

vide letter, dated 02.03.2008, *inter alia*, stated that the original assignee and his wife died; that they are having two daughters viz., Pedda Ramakka and N. Ramakka; that Pedda Ramakka also died leaving behind one son, Naganna; that on verification of Aadhar card and family member certificate, it is found that N. Ramakka, W/o.Subbanna is the second daughter of the deceased original assignee. The writ petitioner's name and her husband's name are not tallying with the details furnished by the present Tahasildar and the then Tahasildar. The then Tahasildar mentioned the name N. Chinna Ramakka, w/o.Sunkanna. The writ petitioner is N. Chinna Ramakka. As per the report of the Tahasildar, Mydukur, and as per Aadhar cards N. Ramakka, W/o.N. Subbanna is the daughter of the original assignee. The writ petitioner has not furnished proper evidences in support of her claim that she is the legal heir of the original assignee. *Ex-gratia* will be paid to the writ petitioner duly following the procedure laid down in terms of G.O.Ms.No.259, Revenue (ASSN-1) Department, dated 21.06.2016, subject to production of a legal heir certificate. This Court while disposing of W.A.No.1903 of 2017 and batch held that assignees are entitled to *ex-gratia* on par with pattedar regarding market value. The subject land is not mutated in the name of the writ petitioner."

5. Learned counsel for the petitioner and the learned Government Pleader for Land Acquisition made submissions in line with the pleadings.

6. I have given earnest consideration to the facts & submissions. It is profitable to first deal with the settled legal position laid down in the decision in **Land Acquisition Officer – cum – Revenue Divisional**

Officer and others etc., Vs. Mekala Pandu and others¹. The common question of law that arose for consideration in the above matter is: "Whether the claimants are entitled to payment of compensation under the provisions of the Land Acquisition Act, 1894, when the assigned lands are resumed by the Government for a public purpose?" The Larger Bench of this Court while answering the question held as under:

"109. In the circumstances, we hold that the assignees of the Government lands are entitled to payment of compensation equivalent to the full market value of the land and other benefits on par with full owners of the land even in cases where the assigned lands are taken possession of by the State in accordance with the terms of grant or patta, though such resumption is for a public purpose. We further hold that even in cases where the State does not invoke the covenant of the grant or patta to resume the land for such public purpose and resorts to acquisition of the land under the provisions of the Land Acquisition Act, 1894, the assignees shall be entitled to compensation as owners of the land and for all other consequential benefits under the provisions of the Land Acquisition Act, 1894. No condition incorporated in patta/deed of assignment shall operate as a clog putting any restriction on the right of the assignee to claim full compensation as owner of the land. 110. In such view of ours, the view taken by this Court in Bondapalli Sanyasi (supra) that whenever the land is taken possession of by the State invoking the terms of the grant, the right of an assignee to any compensation may have to be determined in accordance with the conditions in patta itself is unsustainable. With due respect, we are unable to agree with the view taken in this regard. We are also unable to agree with the view taken that the assignee shall be entitled to compensation in terms of the Land Acquisition Act not as owner but as an interested person for the interest he held in the property.

In view of the above settled legal position, there is no dispute that the assignees of the Government lands are entitled to payment of

¹ AIR 2004 ANDHRA PRADESH 250

compensation equivalent to the full market value of the land and other benefits on par with full owners of the land even in cases where the assigned lands are taken possession of by the State in accordance with the terms of grant or patta, though such resumption is for a public purpose. It is also now thus well settled that even in cases where the State does not invoke the covenant of the grant or patta to resume the land for such public purpose and resorts to acquisition of the land under the provisions of the Land Acquisition Act, 1894, the assignee shall be entitled to compensation as owner of the land and for all other consequential benefits under the provisions of the Land Acquisition Act, 1894.

7. In the case on hand, the petitioner claims to be the daughter of the original assignee. However, in the counter of the respondents, it is stated that there are variations in the name and details of the petitioner as per the reports of the Tahasildars and the contents of the documents like Aadhar card & family member certificate. The respondents thus contend that the writ petitioner has not furnished proper evidences in support of her claim that she is the legal heir of the original assignee. The respondents further state that *ex-gratia* in respect of the subject land will be paid to the writ petitioner by duly following the procedure laid down in terms of G.O.Ms.No.259, Revenue (ASSN-1) Department, dated 21.06.2016, subject to production of a legal heir certificate by her. However, without producing the legal heir certificate, the petitioner approached this Court and filed this writ petition. Nonetheless, the learned counsel for the petitioner submits that the petitioner was never informed about the requirement of production of legal heir certificate and that now-a-days no revenue officer is giving legal heir certificate and that

the revenue & land acquisition departments are having necessary machinery to make an enquiry as to the correctness of claim as regards the legal heirship of the petitioner and, therefore, the writ petition may be disposed of with necessary directions. Learned Government Pleader, however, submitted that the petitioner is required to produce legal heir certificate and that unless such an authenticated proof is produced, compensation/*ex-gratia*, if any, payable in respect of the subject land cannot be paid to her.

8. Having given earnest consideration, this Court is of the considered view that this writ petition can be disposed of with appropriate directions.

9. In the result, the Writ Petition is disposed of reserving liberty to the petitioner to submit to the Land Acquisition Officer, within four (4) weeks from the date of receipt of a copy of this order, a representation with all her supporting documents and list of witnesses whom she wishes to examine with regard to her claim of legal heirship of the original assignee of the subject land. On receipt of the same, the said officer shall conduct an enquiry and do whatever is further needful in the matter in accordance with law. Or in the alternative, he shall forward the same to the competent officer of the Government with a request to conduct a detailed enquiry and issue a legal heir certificate on the petitioner satisfactorily establishing her entitlement to the same to enable her to produce the same before the LAO for passing necessary orders as per law. It is needless to state that in the event the LAO or said officer to whom the representation is forwarded for enquiry takes a view, after due enquiry, that the petitioner is not entitled to a legal heir certificate, the officer concerned shall pass a reasoned order and communicate the same

to the petitioner within a week thereafter. It is needless to state that the necessary exercise in the above regard shall be completed by the respondents within twelve (12) weeks from the date of receipt of a copy of this order.

There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

M.SEETHARAMA MURTI, J

September 24, 2018
MD

