

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

Writ Petition No.24516 of 2017

Order:

Heard learned Senior Counsel Sri Vedula Venkata Ramana appearing for the petitioner, Sri B. Prakash for respondents 4 to 8, learned Government Pleader for the respondents 1 to 3 and also learned Standing Counsel for respondent No.9.

The case of the petitioner is that his father was granted a ryotwari patta under Section 4 of the Andhra Pradesh Inams (Abolition and Conversion into Ryotwari) Act, 1956 (for short 'the Act'), in respect of the land of an extent of Ac.14-60 cents, situated in Survey Nos.164/1, 164/1A, 164/2 and 166 of Vepagunta village, Pendurthi Mandal, Visakhapatnam District, in the year 1991. The said patta has become final. On the death of his father, the petitioner succeeded to the said property. The unofficial respondents were granted ryotwari patta in respect of some small extents of land for the purpose of house sites by proceedings of the second respondent dated 19.09.2012 and it was part of the land for which patta was already issued in favour of the father of the petitioner. In those circumstances, the father of the petitioner filed an appeal under Section 7(2) of the said enactment before the first respondent against the grant of house site pattas to the unofficial respondents. The first respondent after issuing notice to the affected parties allowed the appeal on 10.05.2017 upholding the patta granted in favour of the father of the petitioner and setting aside the pattas granted in favour of the unofficial respondents during the period from 01.08.2012 to 31.12.2014. While so, the first respondent issued a notice on 29.05.2017 seeking to reopen the appeal, keeping the orders dated 10.05.2017 in abeyance and directing the parties to come with relevant record and evidence. The first respondent stated that he noticed certain

irregularities in the above appeal and he wanted to review the said order already passed on 10.05.2017. Challenging the said notice dated 29.05.2017, the present Writ Petition is filed.

The unofficial respondents filed a separate counter affidavit stating that in the appeal filed before the first respondent twenty nine (29) individuals were arrayed as respondents including the present unofficial respondents and the present Writ Petition filed only against the present unofficial respondents is not maintainable without impleading the other affected parties. They further stated that the first respondent did not communicate the order dated 10.05.2017 to any of the twenty nine (29) respondents who were arrayed in the appeal. The unofficial respondents came to know of the order dated 10.05.2017 only when they received a notice on 29.05.2017. The unofficial respondents formed an Association called Mythri Nagar Association for the purpose of securing house sites and it entered into an agreement of sale with the original owner, K.K. Narasimhacharyulu and his sons on 24.06.2000. They started construction of houses. The respondents 5 to 8 also purchased house sites from Hindustan Shipyard Cooperative House Building society, the 9th respondent. The father of the petitioner filed the appeal challenging the ryotwari pattas granted in favour of Mythrinar Association and Hindustan Shipyard Cooperative House Building Society in respect of Ac.1-00 of land covered by Survey No.164/1 and Ac.13.60 cents covered by Survey Nos.164/1, 164/1A, 164/2 and 166 of Vepagunta Village. The unofficial respondents also adverted to the other facts involved in the present case, but this Court does not intend to traverse those facts in view of the nature of disposal of the present Writ Petition.

Learned Senior Counsel appearing for the petitioner pointed out that after passing the order by the first respondent on 10.05.2017, he has no

jurisdiction to review or pass another order and hence the notice dated 29.05.2017 is illegal and void. He further submitted that it is not as if the aggrieved respondents are without any remedy.

There is no dispute that the first respondent has become *functus officio* after passing an order on 10.05.2017 and there is a provision for revision to the competent authority in case any of the parties are aggrieved by the said order. In view of the same, the impugned notice dated 29.05.2017 is set aside and liberty is given to the respondents 5 to 9 or any other person who was already arrayed in the appeal preferred by the father of the petitioner before the first respondent to take appropriate steps challenging the order dated 10.05.2017.

The Writ Petition is, accordingly, allowed. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this writ petition shall stand closed.

Date: 22.02.2018
Nsr

A. RAMALINGESWARA RAO, J