

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 1311 of 2007

ORDER :

Aggrieved by the rejection of the petitioner's Application, *vide* Memo dated 14.12.2006, seeking regularization of her possession over dwelling unit bearing H. No. 9-6-74/4, admeasuring 100 square yards, forming part of Survey Nos.82/P & 83/P, Anjaiahnagar, Behind Mahalaxmi Motors, Thrimalgherry, the Writ Petition has been filed.

The brief facts, as averred in the Writ Petition, are that:

The petitioner came to be in occupation of 100 square yards of site, having purchased the same from one Smt. Haseennunnisa Begum on 15.01.1988 and further, made construction of a small dwelling unit therein. The petitioner claims that she belongs to backward community and she is working as a house-maid in the neighbouring areas for her livelihood. The premises in occupation of the petitioner was allotted Municipal D. No. 6-77/4, Hasmatpet by Kukatpally Municipality and as such, she has been paying taxes since 1993. The petitioner asserted that when she made an Application on 17.11.1995 to take advantage of the procedure notified in G.O.Ms. No. 508, dated 20.10.1995 seeking regularization of her occupation and the said Application was not considered, she filed Writ Petition No. 33111 of 1998 which came to be disposed of on 02.12.1998 with a direction to the parties to process her Application, dated 12.10.1998. Thereafter, a letter was addressed by the Joint Collector, Hyderabad on 29.01.1999 to the Government Pleader with a copy to the petitioner herein that her case was placed before the Committee on 04.01.1997 which

approved the same, subject to payment of the market value at Rs.150/- per square yard, that too, in instalments. Subsequently, the Joint Collector, on 05.10.2004 issued the revised notice by referring the letter dated 17.11.1995 informing that the market value was fixed at Rs.210/- per square yard and directed the petitioner to pay Rs.21,000/- towards regularization fee, within 30 days, pursuant to which, it is stated, the petitioner paid the said amount on 25.07.2005 through SBH, R.P. Road, Secunderabad and sent the same along with a letter dated 28.07.2005 addressed to the 1st respondent, seeking regularization. Thereafter, she had issued another letter to the 2nd respondent dated 07.08.2006, but no action has been taken. It is her further case that *vide* memo dated 14.12.2006, the 2nd respondent informed that the Committee rejected her request on 25.10.2000 itself, and asked her to vacate the said premises as it is required for public purpose. Thereafter, there is no response from the respondents. On the other hand, repeatedly, the respondent authorities are threatening the petitioner. In those circumstances, the petitioner, once again, addressed the letter dated 18.01.2007 to the District Collector seeking regularization and further praying for withdrawal of Memo dated 14.12.2006 issued informing the petitioner that her request was rejected by the committee based on the government memo dated 19.11.2003.

A counter – affidavit has been filed on behalf of the respondents stating that as per the revenue records, the land in Survey Nos. 82/P and 83/P, Bowenpalli Village is recorded as “Inam Land” i.e. government land. It is further stated that the petitioner’s Application for regularization of her plot to an extent of

100 square yards was considered by the Committee on 04.01.2007, subject to payment of Rs.3,20,000/- at Rs.3,200/- per square yard and a notice to that effect was also served on 15.02.1997, but the petitioner failed to pay the market value even after lapse of two months and, in turn, she filed a representation dated 12.10.1998 to regularize the land at Rs.150/- per square yard. The petitioner along with nine others filed Writ Petition No. 33111 of 1998 which was disposed of with a direction that the Application of the petitioner dated 12.10.1998 be considered in terms of G.O.Ms. No. 508, dated 20.10.1995, within six weeks from the date of the order. However, the said order did not give any direction about the market value to be fixed. After disposal of the Writ Petition also, the petitioner had not come forward to pay the market value. It is submitted that in the revised notice dated 05.10.2004, the market value was fixed at Rs.210/- per square yard and the petitioner was directed to pay Rs.21,000/- towards regularization of her unauthorized possession within 30 days from the date of receipt of the said notice, failing which, it was directed that she would be evicted without any further notice. On receipt of the said notice, the petitioner remitted Rs.21,000/- through bank challan dated 25.07.2007 after lapse of more than six months and the same has been submitted to the District Collector for further action. In paragraph 5 of the counter, it is stated that the revised notice was issued to the petitioner, by mistake, and it was noticed that earlier, the petitioner's request for consideration of fixing the market value at Rs.150/- per square yard has already been rejected by the Committee on 25.01.2000, hence, the amount of Rs.21,000/- paid by the petitioner was returned by the

respondents *vide* cheque bearing No. 107197, dated 05.12.2006 under proper acknowledgment and the same was accepted by the petitioner. The 1st respondent also issued the memo dated 21.01.2007 to vacate the said premises within seven days from the date of receipt thereof and the same was affixed on the premises on 03.01.2007 as the petitioner is a non-resident of the given address. It is further stated that the un-registered document, through which the petitioner came to acquire the property cannot be regularized and further, it is stated that the subject land is reserved for public purpose ie. for construction of school building.

A reply - affidavit was filed specifically asserting that the cheque which was issued to her was not encashed and was in fact, returned to the government.

Learned Government Pleader for Revenue, on instructions, submits that the petitioner did not encash the cheque issued in her favour.

Heard learned counsel for the petitioner as well as learned Government Pleader for Revenue.

Considered the respective submissions. Admittedly, the petitioner was in possession of the subject land and that the amount was paid, as far back as on 25.04.2005, as per the intimation given to her on 05.10.2004. No discernible reasons are forthcoming for not passing appropriate orders in favour of the petitioner, especially when it is not in dispute that pursuant to the orders of this Court in Writ Petition No. 33111 of 1998, regularization with respect to other individuals has been affected.

The argument of the learned Government Pleader that no regularization can be affected, as on date, on account of the fact

that G.O.Ms.No. 504, dated 20.10.1995 is no longer in existence, cannot be accepted, for, the respondents have already agreed to regularize the land in favour of the petitioner by issuing the revised notice dated 05.10.2004, wherein a sum of Rs.21,000/- was directed to be paid which amount was also paid through cheque dated 25.07.2005. Further, repealing / non-existence of G.O.Ms. No. 504 does not, in any way, affect the rights accrued in favour of the petitioner as on the date of the impugned memo dated 14.12.2006, at which point of time, the said G.O. was in force.

The learned Government Pleader, on instructions, submits that the petitioner continues to be in possession of the said property. In those circumstances, since no reason has been assigned for not regularizing the land of the petitioner and not conferring her with any appropriate document, having agreed to regularize her occupation *vide* revised notice dated 05.10.2004, the Writ Petition is allowed and the impugned order dated 14.12.2006 of the 2nd respondent is set aside. Consequently, the respondent authorities shall pass necessary orders regularizing the possession of the petitioner over the subject property, duly conferring on her the right and title by issuing appropriate documents. No costs.

Consequently, the miscellaneous Applications, if any stand closed.

CHALLA KODANDA RAM, J

23rd April 2018

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