

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

CONTEMPT CASE No.311 of 2018

O R D E R:

1. This Contempt Case is filed alleging willful and intentional violation of the order dt.29.12.2017 in I.A.No.2 of 2017 in W.P.No.45150 of 2017.

2. The 1st respondent in the CC is the District collector, Visakhapatnam and the 2nd respondent is Tahsildar, Anandapuram.

3. The above Writ Petition had been filed by petitioners challenging the proceedings of the Authorised Officer, Visakhapatnam in LCC.No.230/75 dt.15.12.2017 (6th respondent in the above W.P). Petitioners contended that said order is illegal, arbitrary, without jurisdiction, contrary to the provisions of A.P. Land Reforms(Ceiling on Agricultural Holdings) Act, 1973 (for short 'the Act') and also violative of Articles 14, 21 and 300-A of the Constitution of India, and seek to set aside the same.

Brief background facts

4. Petitioners are the wife and daughter of late Korada Sadu Jagannadharao and are resident of Vemulavalasa Village, Anandapuram Mandal, Visakhapatnam District.

5. The said Korada Sadu Jagannadha Rao is one of the legal heirs of Korada Venkatswamy Naidu, the original declarant under the Act.

6. The said Korada Venkataswamy Naidu was declared as surplus land holder of an extent of Acs.45.59 cents by proceedings LCC.No.230/75 BML dt.29.08.1978 and was directed to surrender certain lands and he agreed to surrender the same on 25.02.1977. These lands were situated in Peddipalem, Anandapuram, Vellanki and Madhurawada villages. They were taken possession on 27.07.1984 as per orders passed under Section 10(3) of the Act.

7. There were certain proceedings thereafter initiated by the Declarant and his legal heirs which are not necessary for the present to be gone into.

8. However it is important to note that the original declarant/ Korada Sadu Jagannadha Rao had offered to surrender land admeasuring Ac.11.14 cts in Vemulavalasa Village u/s.10(3) of the Act to the Land Reforms Tribunal-cum-Revenue Divisional Officer, Visakhapatnam.

Declaration dt.10.4.2017 of petitioners

9. Suffice it to say that the petitioners filed a Declaration on 10.04.2017 in Form-I under Sections 8 and 18 of the Act before the Land Reforms Tribunal (for short 'LRT'),

Visakhapatnam stating that they have acquired an extent of Ac.5.57 cents each in survey No.40 Part of Badanapadu Village, Ravikamatam Mandal through Registered Sale Deeds No.3046/2016 dt.01.06.2016 and 3047/2016 dt.01.06.2016, respectively, and requested to accept these two bits of land totally admeasuring Acs.11.14 cents in survey No.40 Part of Badanapadu Village, Ravikamatam Mandal *in lieu* of proposal made by original declarant Korada Venkataswamy Naidu to surrender land in survey No.39/5 part of Vemulavalasa Village as surplus land, for which consent was given by the original declarant by letter dt.09.04.1999.

orders in LCC No.230/75 LRDT dt.05.10.2017 of the LRT, Visakhapatnam

10. The LRT, Visakhapatnam passed orders vide LCC No.230/75 LRDT dt. 05.10.2017 holding that the land of Ac.11.14 cts in Sy.No.40 of Badanapadu village can be accepted for surrender under the Act *in lieu of* land Acs.11.14 cents in Sy.No.39/5 of Vemulavalasa village which had been offered by the declarant, as the petitioners have voluntarily come forward to surrender the same.

11. After this order was passed, the Tahsildar, Ravikamatam Mandal took possession of the land of Acs.11.14 cents in Sy.No.40 part of Badanapadu village of Ravikamatam Mandal from the petitioners on 10.10.2017 and

reported the same to the District Collector, Visakhapatnam on 10.10.2017.

12. The District Collector thereafter issued proceedings on 11.12.2017 instructing the Tahsildar to include this land in Prohibited List of Lands under Section 22A of the Registration Act, 1908 and not to incorporate it in the revenue records.

LRA No.1 of 2018 before the LRAT-cum-I Addl.District Judge, Visakhapatnam

13. Notwithstanding the same, an appeal was preferred by the Authorized Officer, Land Reforms, Visakhapatnam on 29.12.2017 i.e., LRA No.1 of 2018 before the Land Reforms Appellate Tribunal- cum- I Addl. District Judge, Visakhapatnam challenging the order LCC No.230/75 LRDT dt.5.10.2017 of the LRT, Visakhapatnam. It is stated that another appeal LRA.No.2 of 2018 was also filed subsequently by the State later.

LCC No.230/75 LRDT dt.15.12.2017 of Authorized Officer, Land Reforms, Visakhapatnam

14. In the meantime, the Authorized Officer, Land Reforms, Visakhapatnam wrote to the Tahsildar, Anandapuram and Ravikamatam in LCC No.230/75 LRDT dt.15.12.2017 not to implement the orders of the LRT in LCC No.230/75 LRDT dt.05.10.2017 until further orders.

15. In other words, the Authorized Officer did not want further action to be taken on the acceptance of surrender by the LRT on 5.10.2017 of Acs.11.14 cents of land in Sy.No.40 part of Badanapadu Village *in lieu* of the Acs.11.14 cents in Sy.No.39/5 of Vemulavalasa village which was offered to be surrendered by the declarant.

W.P.No.45150 of 2017 and interim orders passed therein

16. Petitioners challenged proceedings in LCC No.230/75 d.15.12.2017 of the Authorized Officer, Land Reforms, Visakhapatnam in W.P.NO.45150 of 2017 stating that the said order dt.15.12.2017 was illegal, arbitrary and without jurisdiction and contrary to the provisions of the Act. They contended that land of Acs.11.14 cents in Sy.No.39/5 of Vemulavalasa village is no longer surplus land in view of the order dt.15.10.2017 passed by the LRT, Visakhapatnam; and the Authorized Officer, Land Reforms, Visakhapatnam cannot sit in appeal over the decision of the LRT, Visakhapatnam and cannot instruct the Tahsildar, Anandapuram and Ravikamatam not to implement the orders dt.05.10.2017 of the LRT, Visakhapatnam.

17. Petitioners contended therein that pursuant to the said order dt.15.12.2017, the Officials from the Office of the Tahsildar, Anandapuram had started interfering with the petitioners' possession and enjoyment of and that the

Officials of the Tahsildar, Anandapuram informed that possession of the said land would be taken forcibly.

18. On the basis of the said submissions, on 29.12.2017 in **I.A.No.1 of 2017 in W.P.No.45150 of 2017**, this Court held that the Authorized Officer, Land Reforms *prima facie* had no jurisdiction to pass the impugned order on 15.12.2017 and it directed the Tahsildar, Anandapuram not to interfere in any manner with petitioners' peaceful possession and enjoyment of Acs.11.154 cents in Sy.No.39/5 of Vemulavalasa Village.

19. Further, on the same day, in **IA.No.2 of 2017 in W.P.No.45150 of 2017**, this Court suspended the proceedings dt.15.12.2017 in LCC.No.230/75 issued by the Authorized Officer, Land Reforms, Visakhapatnam.

CC.No.311 of 2018

20. Alleging that

- (i) on 19.12.2017 through *mee-seva* petitioners submitted application for issuance of pattadar pass book and Record of Rights under the A.P.Rights in Land and Pattadar Passbooks Act,1971 in respect of Acs.11.14 cents in Sy.No.39/5 of Vemulavalasa village, but no action was being taken thereon;

(ii) that this land is to be treated as their private land and not as ceiling surplus land since their proposal to surrender alternative land i.e Ac.11.14 cts in Sy.No.40 part of Badanapadu Village *in lieu of it* has been accepted by the LRT, Visakhapatnam in his order dt.5.10.2017; and

(iii) when petitioners had approached the Tahsildar, Anandapuram to enter their name in Record of Rights for issuance of Pattadar Passbook, the said Official orally informed that he would not process the petitioners' request in view of the instructions received from the 1st respondent i.e., the District Collector, Visakhapatnam and the proceedings dt.15.12.2017 of the Authorized Officer, Land Reforms, Visakhapatnam,

petitioners filed this Contempt Case alleging that there was intentional and deliberate violation of the order dt.29.12.2017 passed by this Court in I.A.No.2 of 2017 in W.P.No.45150 of 2017.

21. On 09.02.2018 'Notice before admission' was issued to the respondents.

22. Subsequently, after counter affidavit was filed on 10.07.2018 by 2nd respondent notice in Form-I was issued to 2nd respondent.

23. Thereafter, an additional counter affidavit was filed on 23.08.2018.

24. When the matter was heard on 24.08.2018, counsel for petitioners produced an Endorsement dt.05.02.3018 issued by the 2nd respondent refusing to issue pattadar passbooks to the petitioner in view of the pendency of W.P.No.45150 of 2017 in respect of the land in Sy.NO.39 of Vemulavalasa Village. This was not disputed by the Government Pleader for Revenue appearing for the respondents in the CC.

25. The matter was reserved for orders on 24.08.2018.

26. Thereafter, the matter was listed for pronouncement of orders on 12.09.2018.

27. Before the orders were pronounced, the Government Pleader for Revenue informed the Court that LRA.no.1 of 2018 was allowed on 07.09.2018 by the I Additional District Judge-cum-Land Reforms Appellate Tribunal, Visakhapatnam, that the order in LCC.No.230/75 dt.05.10.2017 of the Land Reforms Tribunal and Revenue Divisional Officer, Visakhapatnam was set aside and the matter was remitted back to him to determine afresh and

accept alternative lands of Acs.11.14 cents from out of the total lands, existing as on the notified date, as declared by the original declarant, by giving sufficient opportunity to both sides.

28. Copy of the said order is also filed by the Government Pleader for Revenue.

29. The counsel for the petitioners also accepted that the order dt.05.10.2017 in L.C.C.No.230/75 of the Land Reforms Tribunal and Revenue Divisional Officer, Visakhapatnam has been set aside.

30. In this view of the matter, the petitioners cannot therefore contend that the extent of Acs.11.14 cents in Sy.No.39/5 of Vemulavalsa Village continued to be their non-surplus land and they are entitled to pattadar pass book for it.

31. Consequently, I see no reason to hold that the Tahsildar, Anandapuram Mandal, Visakhapatnam (2nd respondent) had willfully violated the order dt.29.12.2017 in I.A.No.2 of 2017 in WP.No.45150 of 2017 by issuing the endorsement dt.05.03.2018 refusing to issue pattadar pass book and make entry in Revenue Record of the petitioners' names in respect of the said land.

32. Accordingly, the Contempt Case is dismissed.

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

M.S.RAMACHANDRA RAO, J

17th September, 2018.
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