

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION NO.5525 OF 2005

ORDER:

Originally this writ petition was filed questioning the action of the respondents in proceeding to demolish the house of the petitioner bearing No.7-80-8 in Sy.No.244/8/18, Pedda Amberpet, Ranga Reddy District.

2. It is the case of the that he belongs to Scheduled Caste community and he has been assigned with an extent of land admeasuring Ac.1-20 guntas in Sy.No.244/8/18, Pedda Amberpet, Ranga Reddy District, under proceedings No.132/6337/80 in the year 1980 by the revenue authorities. Since then, he has been in physical possession and enjoyment of the said land by paying the taxes. Thereafter, the petitioner made an application to the Gram Panchayat seeking permission for construction of a house and the same was granted on 12.03.2004. While he was proceeding with the construction, when the official respondents i.e., respondent Nos.1 to 3 threatened to demolish the constructions without giving any notice, he filed the present writ petition.

3. Respondent Nos.1 to 3 filed counter-affidavit stating that the subject land is 'Gairan Sarkari' belongs to the Government and out of total extent of Ac.180-15 guntas, an extent of Ac.150-15 guntas was assigned to 104 harijans in the year 1980 for agricultural purpose only. Later, as per the instruction of the District Collector dated 13.03.1987, after following due process of law, the land covered by Sy.Nos.244/2 to 244/5 and 244/17 to 244/30 has been

resumed from some of the assignees on 03.07.1987 for construction of 'truck terminal'. It is further stated that the petitioner, being the Sarpanch of Pedda Amberpet Village, by misusing his position, attempting to be in illegal possession of the land beyond Ac.1-02 guntas.

4. During the pendency of the writ petition, the fourth respondent was impleaded by order dated 21.06.2005 in WPMP.No.11464 of 2005.

5. Thereafter, this Court by order dated 31.03.2011, after hearing the both sides, disposed of the writ petition directing the respondents not to demolish the structures or dispossess the petitioner from the subject land without following due process of law. However, the respondents are given liberty to proceed against the petitioner for violation of conditions of assignment or for any illegal constructions, by following due process of law. Later, the fourth respondent filed an application in Rev.WPMP.No.7624 of 2012 seeking to review the order passed in W.P.No.5525 of 2005 dated 31.03.2011. This Court, by order dated 09.03.2012, allowed Rev.WPMP.No.7624 of 2012, in pursuance of which, the present writ petition is restored to its file and is came up for hearing today.

The order reads as follows:

“ The review petitioner herein who is the 4th respondent in the writ petition rightly pointed out that this Court having held that the land assigned in favour of 19 assignees was resumed by proceedings dated 3-7-1987 for the purpose of construction of Truck Terminal, but in the operative portion, it is stated that the respondents therein are directed not to demolish the structures or dispossess the 1st respondent herein/writ petitioner from the subject matter of the property

without following due process of law. However, the respondents therein are given liberty to proceed against the 1st respondent herein/writ petitioner for violation of conditions of assignment or for any illegal constructions.

It is stated that under the guise of allotment of Ac.1-20 guntas in favour of the petitioner, who is one among 103 subsequent assignees, he had encroached upon the earlier assigned land which was already resumed.

In view of the mistake apparent on the face of the record, the Review MP.No.7624 of 2012 is allowed and the order passed in W.P.No.5525 of 2005 dated 31-03-2011 is set aside and the writ petition is restored to file.”

6. Heard Sri K.G. Krishna Moorthy, learned Senior Counsel appearing for the petitioner, Sri Harish, Assistant Government Pleader for Revenue (Telangana) for respondent Nos.1 to 3 and Mrs.M.Bhaskara Lakshmi, learned counsel for respondent No.4.

7. Learned counsel for the petitioner submits that the petitioner has not violated any conditions laid down in the patta certificate, but he has constructed a house after obtaining permission from the concerned Gram Panchayat and residing there by cultivating the subject land and paying all taxes. He further submits that the official respondents, at the behest of the fourth respondent, have initiated resumption proceedings reducing the assigned area from Ac.1-20 guntas to Ac.1-02 guntas without issuing any notice and passed orders of resumption. He also submits that the official respondents neither issued any notice of resumption nor supplied copy of resumption to the petitioner and action initiated for demolition of the house without notice and hence the action of the respondents is in gross violation of principles of natural justice and contrary to law.

8. Learned counsel for the fourth respondent submits that the official respondents by following due process of law have allotted the land to the fourth respondent and it is using the said resumption land for public purpose.

9. Learned Government Pleader submits that the prayer in the writ petition is only to the extent of not to demolish the house of the petitioner and hence the petitioner cannot raise other issues in the present writ petition.

10. The learned Government Pleader placed the record before this Court. On perusing the same, no notice, which the respondents are claiming to have been served upon the petitioner, is available therein. However, a panchanama is found which states that upon the refusal of the notice by the petitioner, the same has been affixed on the doors of the petitioner. On 19.09.1988, the first respondent issued proceedings reducing the assigned area to an extent of Ac.0-18 guntas from all the assignees from Ac.1-20 guntas to Ac.1-02 each. Hence, the petitioner is entitled for an extent of Ac.1-02 guntas as per the above proceedings dated 19.09.1988 and the same are not challenged.

11. It is brought to the notice of this Court that the petitioner did not challenge the resumption proceedings. Since the challenge in the present writ petition is the action of the respondents in proceeding to demolish the house of the petitioner bearing No.7-80-8 in Sy.No.244/8/18, Pedda Amberpet, Ranga Reddy District, the

issue of resumption of land and redistribution of the same cannot be decided in this writ petition.

12. In the circumstances, this writ petition is disposed of directing respondent Nos.1 to 3 not to demolish the house of the petitioner bearing No.7-80-8 in Sy.No.244/8/18, Pedda Amberpet, Ranga Reddy District, without following due process of law. However, respondent Nos.1 to 3 are given liberty to proceed against the petitioner for violation of conditions of assignment or for any illegal constructions, by following due process of law. No costs. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

Date: 26-04-2018
TJMR

T.AMARNATH GOUD, J

