

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION NO.6736 AND 7454 OF 2018

COMMON ORDER:

These two cases are being disposed of by this common order as they relate to the proceedings before the 3rd respondent who is seized of the enquiry relating to grant of Occupancy Rights Certificate in respect of the lands in Survey Nos.113 to 120 of an extent of Acs.50.08 guntas situated at Karmanghat Village and a claim petition in respect of the said property. The said cases are numbered as A2/2742/2017 and A2/2743/2017. The said two matters were clubbed together and enquiry is being conducted jointly. It appears that the said two proceedings were initiated by two sets of people.

2. When a Gazette Notification was issued on 27.7.2006 declaring the said property as Wakf property, the claim petitioners before the 3rd respondent and others filed Writ Petition Nos.20868 of 2006 and batch challenging the said Gazette Notification and this Court by an order dated 24.3.2017 disposed of the said batch of cases allowing Writ Petition Nos.20868, 20869 and 20870 of 2006 and set aside the proceedings dated 4.7.2006 and the consequential Notification dated 27.7.2006 declaring the said property as Wakf property and also allowed Writ Petition Nos.24461, 24462 and 24463 of

2006 and Writ Petition No.8410 of 2007 challenging the order of the Joint Collector dated 7.11.2006 by setting aside the said order and remanding the matter to the Revenue Divisional Officer, Kandukur Division, to consider the petitioners who are entitled for Occupancy Rights Certificate under the provisions of Andhra Pradesh (Telangana Area) Inam Abolition Act, 1955 for the said land. It was also made clear that neither the Andhra Pradesh Wakf Board nor the legal heirs of Mohd. Miskeen, shall be allowed to participate in the proceedings. This Court fixed a time limit of three months for disposal of the proceedings. After disposal of the said Writ Petitions as aforesaid, the above proceedings were taken up by the 3rd respondent.

3. The petitioners in Writ Petition No.7454 of 2018 were the petitioners in Writ Petition No.8410 of 2007 which formed part of the said batch of cases disposed of by this Court as aforesaid.

4. The grievance of the petitioners in the present Writ Petition No.7454 of 2018 is that the husband of the 1st petitioner and father of the petitioners 2 and 3 earlier filed an application on 17.1.2005 before the 3rd respondent for grant of Occupancy Rights Certificate to the extent of his legitimate share in the above lands and it was pending consideration. The applicant B.Pratap Reddy, husband of the 1st petitioner is

claiming through protected tenant and he appears to have died on 26.10.2012 leaving the petitioners as legal heirs. When the above two proceedings are being taken up by the 3rd respondent, the petitioners filed a petition on 24.2.2018 to come on record as legal heirs of the sole applicant in respect of the application filed on 17.1.2005 by the husband of the 1st petitioner, which was numbered as J/215/2005 and the 3rd respondent refused to entertain such request. It is the case of the petitioners that the said claim related to the land involved in the said two proceedings. Challenging the said action, Writ Petition No.7454 of 2018 was filed.

5. Learned Government Pleader submits that the application filed by the husband of the 1st petitioner in J/215/2005 on 17.1.2005 is not available in the file. The 3rd respondent, in the written instructions to the learned Government Pleader, stated that since the petitioners are parties before him, they can submit their pleadings either in the form of counter or in the form of application for grant of Occupancy Rights Certificate in the present case itself instead of reopening the application.

6. The petitioners in Writ Petition No.6736 of 2018 tried to file a petition Under Order 1 Rule 10 of Civil Procedure Code on 6.2.2018 and the same was refused to be taken on file and

challenging the action of the 3rd respondent, they filed the Writ Petition.

7. The 3rd respondent, in his written communication to the learned Government Pleader, stated that the petitioners are neither Inamdars nor Possessors of the subject land as on the crucial date i.e., on 1.11.1973 nor Writ Petitioners in the batch of cases disposed of by this Court on 24.3.2017.

8. Learned counsel for the claim petitioners before the 3rd respondent supported the stand taken by the 3rd respondent.

9. Learned counsel for the petitioners in Writ Petition No.7454 of 2018 submitted that in view of the biased approach of the 3rd respondent, they have already submitted a representation to the District Collector, 2nd respondent for transfer of the case from the 3rd respondent to any other Revenue Divisional Officer in the same district for disposal in accordance with law and the said application is pending.

10. This Court noticed that the approach of the 3rd respondent in dealing with the applications filed by the petitioners in the present two Writ Petitions is not in accordance with law. The petitioners in Writ Petition No.6454 of 2018 filed a copy of the application which was filed by the husband of the 1st petitioner on 17.1.2005 along with the present Writ Petition and it bears the stamp of the then

Revenue Divisional Officer. If the said application is not available, the petitioners should have been given an opportunity to file a copy of the said application and should have considered the same. Similarly, whether the petitioners in Writ Petition No.6736 of 2018 have a right or not, it cannot be decided without accepting the application filed by them. When they filed an application Under Order.1 Rule.10 of Civil Procedure Code, it is incumbent upon the 3rd respondent to receive the said application and pass appropriate orders in accordance with law. Hence, this Court is of the opinion that the 3rd respondent is not conducting the proceedings as expected of him as a quasi judicial authority. In Writ Petition No.7454 of 2018, this Court, by order dated 7.3.2018, restrained him from passing any final order.

11. In the circumstances, these two Writ Petitions are disposed of directing the 2nd respondent to transfer the said proceedings in Case No.A2/2742/2017 and Case No.A2/2743/2017 to any other Revenue Divisional Officer within his jurisdiction for disposing of those claim petitions along with the claim petition filed by the husband of the 1st petitioner in Writ Petition No.7454 of 2018 which was numbered as J/215/2005 and also receive the application of the petitioners in Writ Petition No.6736 of 2018 and dispose of the

main proceedings and the application in accordance with law as expeditiously as possible. The 2nd respondent shall withdraw the proceedings from the 3rd respondent and entrust the same to another Revenue Divisional Officer within his jurisdiction within two weeks from the date of receipt of a copy of this order and the Revenue Divisional Officer to whom the matter is entrusted, shall dispose of the same, within a period of eight weeks from the date of entrustment and it is needless to observe that the parties to the proceedings shall co-operate for disposal of the matter.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.


A. RAMALINGESWARA RAO, J

Date: 13.3.2018

KPM