

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION Nos. 26726 and 6163 of 2006

COMMON ORDER:

These two writ petitions are being disposed of by this common order as they arise under identical circumstances.

For the sake of convenience, the parties hereinafter are referred to as arrayed in W.P.No.6163 of 2006.

W.P.No.6163 of 2006 is filed for the following relief:

“....to issue any appropriate Writ, Order or direction more particularly one in the nature of Writ of Certiorari calling for the records of the Respondent No.1 herein in case No F1/6952/2004 dated 6-12-2005 and quash the same insofar as the same relates to the petitioners herein and their half extent of land in Sy.Nos. 26, 27 and 80 admeasuring Ac.4-12 gts, Ac.0-39 gts and Ac.1-38 gts respectively situated at Pendyal Village, Maheswaram, Mandal Ranga Reddy District in the interest of justice and equity....”

W.P.No.26726 of 2006 is filed for the following relief:

“....to issue a writ, order or orders particularly one in the nature of writ of certiorari calling for the records pertaining to the proceedings dated 6-12-2005 bearing case No F1/4363/2005 setting aside the orders of the Revenue Divisional Officer dated 19-1-2004 bearing case No J/1162/2002 granting occupancy rights certificate for total extent of land 7.09 gts in survey Nos. 26, 27 and 80 situated at Pendyal Village, Maheshwaram Mandal, Ranga Reddy District is contrary and illegal and the same may be quashed and a direction may be issued to consider the petitioners application for granting

occupancy rights certificate or to pass any other order or orders appropriate in the case may be passed...”

The controversy involved in both the writ petitions is with regard to grant of Occupancy Rights Certificate (ORC) with respect to the land admeasuring Acs.8.25 guntas, Ac.1.37 guntas and Acs.3.37 guntas (total Acs.14.19 guntas) in Survey Nos.26, 27 and 80 respectively of Pendyal Village, Maheshwaram Mandal, Ranga Reddy District. It is an inam land and the petitioners and respondent Nos.6 to 9 claimed ORC in respect of the said land. Respondent Nos.6 to 9 approached the Mandal Revenue Officer, Maheshwaram, respondent No.3, for grant of ORC with respect to land admeasuring Acs.7.08 guntas. There upon, respondent No.3 forwarded the same to respondent No.2- Revenue Divisional Officer, Ranga Reddy East Division, Hyderabad, who in turn issued notices to the persons concerned. Pursuant to the same, petitioner No.4, M.Isthari, filed a memo of compromise entered with respondents 6 to 9 by stating that he is the protected tenant, as such, he may be issued ORC, and that an objection petition came to be filed by petitioner Nos.1 to 3 herein claiming that they are also entitled for ORC so far as the share of petitioner No.4, who alone cannot be granted ORC in exclusion of other family members. After completion of enquiry, respondent No.2 issued proceedings, dated 19.01.2004, holding that petitioner Nos.1 to 3 together with petitioner No.4 are entitled to the land to an extent of Acs.7.08 guntas and respondent Nos.6 to 9 are entitled to the balance half share i.e. Acs.7.08 guntas

from the total land. Aggrieved by the said proceedings, respondent Nos.4 and 5 filed an appeal before respondent No.1-Joint Collector-II, under Section 24 of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (for short 'the Act'), claiming that they are also entitled for grant of ORC for half share since they are the legal heirs of Sri Vadla Ramachandraiah and ORC was granted only to the legal heirs of Sri Vadla Sathaiah. Sri Vadla Ramachandraiah and Sri Vadla Sathaiah are the Inamdars having half share each over the land admeasuring Acs.14.19 guntas. Respondent No.1 after considering the respective claims came to the conclusion that there are civil disputes between the parties and therefore advised them to approach the civil Court and after the civil Court determining their respective rights, to approach the competent authority for grant of ORC and thereby, set aside the proceedings, dated 19.01.2004.

The petitioners assert that as there was no dispute with respect to the total extent of the land, respondent No.2 determined that they are entitled to half share of the land and that the appeal filed by respondent Nos.4 and 5 is in relation to the remaining half share granted in fact, in favour of respondent Nos.6 to 9. Before respondent No.1 also, there was no dispute with respect to the grant of ORC to the petitioners on 10.03.2004 and the challenge was limited to the grant of ORC in favour of respondent Nos.6 to 9 on 19.01.2004. In view of the same, the direction issued by respondent No.1 is limited to the extent of the claim that was adjudicated by respondent No.2 with respect to

half share granted in favour of respondent Nos.6 to 9 and not to the extent of half share granted in favour of the petitioners. They specifically assert that consideration by respondent No.2 for grant of ORC was by treating the petitioners as protected tenants and respondent Nos.6 to 9 as inamdars. Inasmuch as respondent Nos.4 and 5 are claiming to be the inamdars, at best, the dispute can only be in relation to grant of ORC in favour of respondent Nos.6 to 9 and not in respect to grant of ORC in favour of the petitioners in the capacity of protected tenants.

Respondent No.10 in W.P.No.6163 of 2006 filed W.P.No.26726 of 2006 challenging the order, dated 06.12.2005, to the extent of advising the parties to approach the civil Court.

Learned counsel for respondent No.10 submits that it is not open for respondent No.1 in advising the respective parties to approach the civil Court and he is duty bound to decide their respective rights being the authority conferred powers under the Act.

Sri Tulasi Reddy, learned counsel for the petitioners, while reiterating the claim of the petitioners, specifically asserts that the appeal before respondent No.1 was in relation to grant of ORC in favour of respondent Nos.6 to 9 and there was no challenge with respect to grant of ORC in favour of the petitioners.

Learned counsel for respondent Nos.6 to 9 submits that the eligibility for grant of ORC by respondent No.2 and grant of half

share in favour of his clients is after taking into consideration the fact there were two branches of families, namely Sri V.Ramachandraiah and Sri V.Sathaiah, who are entitled for ORC and considering the claim of respondent Nos.6 to 9, for half of the share, ORC was granted. He further asserts that the appeal filed by respondent Nos.4 and 5 before respondent No.1 is not in relation to grant of ORC in favour of respondent Nos.6 to 9, but challenge is with respect to grant of ORC in favour of the petitioners.

The contention of learned counsel for respondent Nos.4 and 5 at the outset is that Respondent No.1 exceeded and erred in directing the parties to approach the civil Court and there was no proper determination made by Respondent No.2 and in those circumstances, this is a fit case to set aside the impugned orders and to direct respondent No.2 to conduct *de novo* enquiry with respect to the claims of the parties and grant ORC as per their entitlement.

Learned Government Pleader submits that in the light of the rival claims and in the absence of the consensus among the claimants, respondent No.1 rightly advised the parties to approach the civil Court, as such, the order passed by him cannot be found fault with.

Having considered the respective submissions, it may be noted that the appellants before respondent No.1 were not the parties before respondent No.2 and in the order, dated

19.01.2004, respondent No.2 having noticed that there were two branches of families, namely, Sri Vadla Ramachandraiah and Sri Vadla Sathaiah, who were entitled for half share each as inamdars, had failed to take into consideration the claim of respondent Nos.4 and 5 and 10.

A perusal of the order, dated 19.01.2004, *prima facie* indicates that while making a reference with regard to the compromise said to have been arrived at between petitioner No.4 and respondent Nos.6 to 9, taking into consideration the objections raised by petitioner Nos.1 to 3 instead of considering the grant of ORC exclusively in favour of petitioner No.4, ORC was granted by respondent No.2 in favour of petitioner Nos.1 to 3 also. However, in the process, the claim of the branch of Sri Vadla Ramachandraiah's family was not considered. In other words, there was no determination with respect to all the parties concerned by the primary authority. It may be noted that in the appeal grounds filed by respondent Nos.4 and 5 before the Joint Collector, Ranga Reddy District, specific grounds with respect to the entitlement of the petitioners were also raised in ground Nos.4 and 5 in addition to their claim not being considered by respondent No.2. Respondent No. 10 also filed an appeal before the Joint Collector, Ranga Reddy District.

One of the arguments advanced by the learned counsel for respondent No.10 (petitioner in W.P.No.26726 of 2006) that in the affidavit filed in support of W.P.No.6163 of 2006, the petitioners

therein have limited their claim only to the land to an extent of Acs.7.08 cents, thereby suggesting that they were not aggrieved by the orders granting ORC in favour of respondent Nos.6 to 9 does not commend acceptance for the reason that in the very appeal filed by respondent Nos.4 and 5 before the Joint Collector, Ranga Reddy District, specific grounds as stated supra, have been raised with respect to the claim of the petitioners for grant of ORC.

In those circumstances, as there was no consideration by the primary as well as appellate authorities with respect to the rights of respondent Nos.4, 5 and 10 for granting ORC, in the interests of justice, the writ petitions are allowed and the impugned proceedings are set aside. The primary authority is directed to conduct *de novo* enquiry by issuing notice to all the parties concerned and complete the same and pass appropriate orders within a period of four months from the date of receipt of a copy of this order.

Miscellaneous petitions, if any, pending in these writ petitions shall also stand disposed of. There shall be no order as to costs.

CHALLA KODANDA RAM, J

Dt:16.04.2018

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