

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.5491 OF 2006

ORDER:

Petitioner-Sri Chennakesava and Ramalingeswara Swamy Temple, Piduguralla, Guntur District, represented by its Manager, filed this writ petition seeking to declare the action of the respondents in granting pattas to landless poor in respect of the land admeasuring Acs.8-82 cents in survey Nos.188/A and 188/B of Piduguralla Village (hereinafter called as 'subject land') without initiating land acquisition proceedings, as illegal.

Brief facts of the case are that the subject land was owned by the Temple. As a large number of people encroached temple land, the Trustees filed petition before the 1st respondent-Government seeking stay of land acquisition proceedings. Vide orders dated 13.07.1977 passed in Memo No.1448/Endowments-III/77-1, the first respondent granted stay. However, at the instance of the local MLAs, the stay was vacated on 02.08.1977. In the year 1987, the local MLA addressed a letter to the District Collector, Guntur, to acquire the land from the temple and grant pattas to the encroachers. The District Collector addressed a letter dated 14.12.1987 to the Mandal Revenue Officer and other Endowment Authorities for taking necessary action. Pursuant thereto, the Mandal Revenue Officer, vide letter dated 15.06.1988 sought consent of the Assistant Commissioner of Endowments for acquisition of the land. While so, the encroachers directly approached the 1st respondent-Secretary, Revenue Department, and got issued G.O.Ms.No.508 dated 20.10.1995 and G.O.Ms.No.526 dated 30.06.1999 permitting regularization of

lands. In pursuance to the same, without verifying any records, respondents 2 to 4 issued pattas to the encroachers duly regularizing their possession over the land belonging to the Government. Aggrieved by the action of the respondents in distributing the land of the petitioner-Temple without initiating any acquisition proceedings and paying compensation, the present writ petition came to be filed.

The second respondent-District Collector, Guntur, filed a counter stating that the Temple authorities failed to protect the lands and allowed encroachments in the temple land. The inaction of the Executive Officer of the Temple allowed the trespassers to continue in the land as a result it became necessary to regularize their occupation by initiating land acquisition proceedings or in terms of G.O.Ms.No.508 Revenue (Assn.I) Department dated 20.10.1995. As per the provisions of the Land Acquisition Act, the Land Acquisition Officer alone is competent to fix the market value of the land as per the guidelines prescribed and instructions issued by the Government. On account of the inaction of the Temple officials, the encroachers continued to stay in the land of the Temple by erecting huts. The same was considered by the Government and regularized the encroachments as per G.O.Ms.No.526 dated 30.06.1999 and orders for regularization of the encroachments were issued by following the conditions stipulated in G.O.Ms.No.508 dated 20.10.1995 and G.O.Ms.No.972 dated 04.12.1998. Without explaining the delay and laches in filing the writ petition, the writ petition is not maintainable and if at all the petitioner is aggrieved by the action of the respondents, the only remedy left open to the petitioner is to approach the

competent Civil Court by making the Revenue Department and the beneficiaries as party.

Heard both sides and perused the material on record.

Learned counsel for the petitioner would contend that the respondents have regularized the encroachments by granting pattas by G.O.Ms.No.526 dated 30.06.1999 and as such the petitioner is entitled for compensation as per the market value in respect of the lands wherein the encroachments were regularized by the respondents by granting pattas.

Per contra, the learned Assistant Government Pleader would contend that because of the negligence of the Temple authorities, the lands of the Temple were encroached and as the encroachers were continued for long period, their occupation was regularized as per G.O.Ms.No.526 dated 30.06.1999. If necessary proposals are submitted by the Endowments Department to the Chief Secretary, Chief Commissioner of Land Acquisition, Hyderabad, the compensation would be settled.

In the facts and circumstances of the case and in considered view of this Court, it is not in dispute that the respondents regularized the encroachments made on the Temple land by granting pattas in favour of the encroachers as per G.O.Ms.No.526 dated 30.06.1999. Clause (5) of the said G.O. mandates that *“In the case of lands belonging to Endowments Department and Wakf Board, compensation would be paid with reference to the statutory provisions governing the case.”* Hence, the respondents are under obligation to pay compensation to the petitioner-Temple in respect of the lands in which encroachments were regularized.

Therefore, the Writ Petition is allowed directing the respondents to pay compensation to the petitioner-Temple in respect of the lands for which pattas were granted to the encroachers on regularization. The respondent authorities shall take steps for payment of compensation to the petitioner Temple as expeditiously as possible not later than two months from the date of receipt of a copy of this order.

Miscellaneous petitions pending in this petition, if any, shall stand closed. There shall be no order as to costs.

27th April, 2018
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(M.GANGA RAO, J)