

THE HONOURABLE SRI JUSTICE M. GANGA RAO

W.P.No.10485 of 2007

ORDER

This writ petition is filed to issue a writ of mandamus declaring the action of the respondents that without following the procedure and without issuing notice to the first petitioner, they had withdrawn the land acquisition amount of Rs.5,34,500/- and issued cheque dated 12.03.2007 in favour of the second respondent by colluding with respondents 1 to 4 while the matter is pending before the Sub-Divisional Magistrate, Mobile Court, Bhadrachalam in O.S.No.292 of 2006, as illegal, void and opposed to Articles 14,19, 21 and 300-A of Constitution of India and consequently to direct the respondents to deposit the amount of Rs.5,34,500/- to the credit of the suit in O.S.No.292 of 2006.

2. The case of the petitioners is that the first respondent-Land Acquisition Officer had acquired the land to an extent of Ac.54.00 in various survey numbers, situate at Kukunuru Mandal, belonging to the first petitioner, for the purpose of Polavaram Project. The first respondent also passed the award. The second respondent herein filed suit in O.S.No.292 of 2006 on the file of the Sub-Divisional Magistrate, Mobile Court, Bhadrachalam, against the first petitioner, by name, Thandra Buchiramaiah, for partition of 1/3rd share of land to an extent of Ac.54.00 and she also filed I.A.No.104 of 2006 to attach the sum of 1/3rd share amount from the land acquisition compensation amount of first petitioner and remit the said amount to the Court pending disposal of the suit. It is stated that the second

respondent shown the suit value at about Rs.5,00,000/- and she has got 1/3rd share in the said property. The Sub-Divisional Magistrate, Mobile Court, Bhadrachalam, passed orders on 18.10.2006 in I.A.No.104 of 2006 to attach the sum of 1/3rd share amount from land acquisition compensation amount payable to the first petitioner and remit the same before the Court. Accordingly, the first respondent deposited the amount to the credit of the suit. It is stated that the 4th respondent-Sub-Divisional Magistrate, Mobile Court, Bhadrachalam, has entertained the suit without jurisdiction and permitted the second respondent/plaintiff to withdraw the land acquisition amount of Rs.5,34,500/- by colluding with all the respondents in O.S.No.292 of 2006. The 4th respondent, high handedly, in collusion with the other respondents, by taking illegal gratification has released the cheque amount in favour of the second respondent without following the procedure as contemplated.

3. The land of first petitioner was acquired for public purpose. The second respondent, by name, Thandra Bayamma, filed suit in O.S.No.292 of 2006 on the file of Sub-Divisional Magistrate, Mobile Court, Bhadrachalam, against the first petitioner and obtained interim orders attaching the sum of 1/3rd share from the land compensation amount of the first petitioner and remit the same to the credit of the suit.

4. The 5th respondent filed counter stating that after conducting enquiry, he has submitted a report stating that the 4th respondent has acted illegally without jurisdiction by entertaining the suit in

O.S.No.296 of 2006 filed for partition and passed orders in I.A.No.104 of 2006 and 70 of 2007 directing the first respondent to attach the sum of $1/3^{\text{rd}}$ share of compensation amount payable to the first petitioner and remit the said amount before the Court and thereupon, it appears that the respondents issued a cheque on 12.03.2007 to the second respondent. Further it is stated that the Mobile Court has got jurisdiction for Rs.5,000/- only and that when the property is valued more than Rs.5,000/-, the Agent to Government, Khammam (District Collector), is competent to entertain the suit. The 5th respondent, as per the directions of the District Collector-6th respondent, conducted enquiry into the allegations leveled against the 4th respondent and submitted a detailed report to the District Collector, Khammam vide Rc.No.A3/1177/2006 dated 02.12.2008. It is also stated that the Sub-Divisional Magistrate, Mobile Court, has already submitted the case to the District Collector, Khammam vide letter dated 28.08.2007. In conformity of the orders of the District Collector, Khammam, he enquired about the illegalities of the Sub-Divisional Magistrate, Mobile Court, Bhadrachalam, in all 19 cases including O.S.No.292 of 2006 and submitted a detailed enquiry report to the District Collector, Bhadrachalam, vide Rc.No.A3/1177/2006 dated 02.12.2008. The District Collector, Khammam, has sent a detailed report to the Chief Commissioner of Land Administration, Hyderabad vide LR.Rc.No.F1/1811/2006 dated 16.01.2009 recommending for initiating action against Smt R. Anuradha, Sub-Divisional Magistrate, Mobile Court, Bhadrachalam, respondent No.4. In the counter, it is

further stated that the entire villages of Kukunoor Mandal have been transferred to West Godavari District in consonance with the provisions of A.P. Reorganization Act and the subject land of the first petitioner is in West Godavari District of Andhra Pradesh State. Smt R. Anuradha, is now working as Personal Assistant to the Special Collector (LA), Telugu Ganga Project, Srisailam, Kurnool District. So far no disciplinary action was initiated against the 4th respondent for committing irregularities in paying the land acquisition amount of Rs.5,34,300/- to the second respondent by way of cheque, contrary to the procedure.

5. The 6th respondent also filed counter stating that the District Collector, Khammam, the 5th respondent has enquired into the allegations levelled against the 4th respondent and submitted a detailed report to the District Collector, Khammam vide Rc.No.A3/1177/2006 dated 02.12.2008 along with the connected records on the file of the Sub-Divisional Magistrate, Mobile Court, Bhadrachalam, and that basing on the enquiry report, he sent a detailed report to the Chief Commissioner of Land Administration, A.P.,Hyderabad, recommending for initiating action against the Sub-Divisional Magistrate, Mobile Court, Bhadrachalam. He denied the allegation that the respondents are acted unlawfully.

6. Learned Government Pleader appearing for the 1st respondent contended that the first respondent had deposited the amount of Rs.5,34,500/- towards 1/3rd share of the second respondent before the Sub-Divisional Magistrate, Mobile Court, Bhadrachalam, as per

the orders passed in I.A.No.104 of 2006 only. Hence, there is no illegality in depositing the amount to the credit of the suit.

7. The learned Assistant Government Pleader appearing for the 5th respondent would contend that as per the directions of the District Collector, the 5th respondent has conducted a detailed enquiry and submitted a report to the District Collector. The District Collector, in turn, addressed a letter to the Chief Commissioner of Land Administration, A.P., to take appropriate action and now, the lands in the entire villages of Kukunoor Mandal have been transferred to the West Godavari District in consonance with the provisions of A.P.O.Reorganization Act and the subject land of the petitioner is in West Godavari District of A.P.

8. In the facts and circumstances of the case, this Court is of the view that the 4th respondent-Sub-Divisional Magistrate, Mobile Court, Bhadrachalam, without jurisdiction, has entertained the suit in O.S.No.292 of 2006 filed by the second respondent against the first petitioner for partition of 1/3rd share of total compensation payable to the first petitioner for the land to an extent of Ac.54 situate at Kukunur Mandal and that the 4th respondent also passed orders in I.A.Nos.104 of 2006 and 70 of 2007 directing the first respondent to attach a sum of 1/3rd share amount from out of the compensation payable to the first petitioner and remit the said amount to the Court. The first respondent, without any verification, accordingly deposited the amount of Rs.5,34,500/- to the credit of the suit and the 4th respondent, without jurisdiction has entertained the suit and also

contrary to the procedure, issued the cheque without issuing any notice to the first petitioner and it is also found in the enquiry of the 5th respondent that she has illegally paid the amounts to the 2nd and 3rd respondents herein. The 4th respondent, in spite of receipt of notice, had not filed any counter. Hence, the 4th respondent is liable to deposit the amount of Rs.5,34,500/- with interest at 9% per annum from the date of illegal payment of the amount to the second respondent, as the same was without jurisdiction and contrary to the procedure, within two months from the date of receipt of a copy of this order. Further, the Chief Commissioner of Land Administration, Hyderabad, is directed to take action against the 4th respondent as per report of the District Collector, Khammam, submitted vide L.R.Rc.No.F1/1811/2006 dated 16.01.2009, comply the same, as expeditiously as possible, within four months from the date of receipt of a copy of this order.

9. With the above direction, the Writ Petition is allowed. No order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE M. GANGA RAO, J

14th March, 2018

sj

Note:

Registry is directed to communicate this order to the Chief Commissioner of Land Administration, Hyderabad.