

HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI**WRIT PETITION No.23314 of 2007****ORDER:**

This Writ Petition is filed by the petitioner, seeking to direct the 1st respondent to issue no objection certificate, setting aside the Endorsement order Lr.No.E1/1965/2007, dated 20.10.2007 issued by the 1st respondent to enable him to meet the expenses for the treatment of his wife.

2. The brief facts, according to the petitioner, are that the petitioner joined in Indian Air Force in the year 1974 and retired from service in 1989; he applied to the State Government for grant of Patta under Ex-servicemen quota on 20th December, 1995, for allotting land in Sy.No.300/1, situated in Inmulnarva village of Kothur Mandal; the land admeasuring Ac.4.37 guntas was assigned to the petitioner under ex-servicemen quota and that he is in possession and enjoyment of the land since 1996; the petitioner requested the 1st respondent through the 2nd respondent to issue no objection certificate to sell the above assigned land to meet the medical expenses of petitioner's wife, who was ill; the 1st respondent rejected the request of the petitioner on the ground that it is nowhere mentioned in the file that he was ex-servicemen; the petitioner's contention is that G.O.Ms.No.1117 dated 11.11.1993 is applicable to the ex-servicemen and according to the said G.O., after the period of ten years, the assignee can sell the land; as the period of 10 years has elapsed, there is no embargo to sell the land and hence prays for issuance of no objection certificate to sell the said land.

3. Counter affidavit has been filed by the 1st respondent, stating *inter alia*, that the petitioner was not assigned the land under the Ex-servicemen quota and that it was given to him as an ordinary applicant, belonging to ST community; the application for assessment under ex-servicemen quota must be submitted within two months from the date of discharge and that the said application would be certified by the Commanding Officer of the unit and routed through Zilla Sainik Welfare Officer; as the petitioner was not assigned the land under ex-servicemen quota, G.O.Ms.No.1117 dated 11.11.1993 is not applicable to him.

4. Heard learned counsel for the petitioner and learned Assistant Government Pleader on behalf of the respondents.

5. The learned counsel for the petitioner contends that the petitioner applied for assignment of patta, under ex-servicemen quota; due to mistake on the part of the respondent, patta certificate has been granted to him on 18.11.1996 under the landless poor persons quota. He further contends that the conditions in the patta certificate granted to him on 18.11.1996 are not applicable to him as he is an ex-servicemen and that the conditions mentioned in G.O.Ms.No. 1117 dated 11.11.1993 are applicable to him.

6. The learned Assistant Government Pleader contends that the Patta certificate filed in the material papers along with the Writ Petition shows that the Patta was issued under the landless poor persons category and not under ex-servicemen quota. Hence, the

benefit of the G.O.Ms.No.1117 dated 11.11.1993 is not applicable to the petitioner.

7. As seen from the affidavit filed by the petitioner, the petitioner himself applied for the land in Sy.No. 300/1, situated at Inmulnarva village of Kothur Mandal on 20th December 1994. Pursuant to his application, Patta was granted to him on 18.11.1996 as a landless poor person, in accordance with the "Laoni" Rules, contained in G.O.Ms.No.1406 dated 26.07.1958. The 1st condition in the said patta is that the land shall be heritable and not alienable. Hence, the subject land is not alienable according to the patta, which was granted to the petitioner.

8. The contention of the learned counsel for the petitioner is that the petitioner is entitled to the benefit of G.O.Ms.No. 1117 dated 11.11.1993 is also not tenable, because the Patta is not granted to him under ex-servicemen quota. Admittedly, the petitioner is in enjoyment and possession of the said land, pursuant to the Patta dated 18.11.1996. This shows that he never raised the issue with regard to issuance of the patta under the land less poor Category. For the first time when his application to grant no objection certificate to sell the said land was rejected on 20.10.2007, the present Writ Petition is filed alleging that due to mistake the wrong patta has been granted to him in the year 1996. It is also relevant to note that the petitioner filed W.P.M.P. 30379 of 2007, and an interim direction was granted on 14.10.2009, directing the Sub Registrar, to receive, register and release the documents submitted by the petitioner. However, it is made clear that the same would be subject to the result of the Writ Petition.

9. The counsel for the petitioner submits that pursuant to the said interim order he sold the said property. But, subsequently, a deed of cancellation dated 30th June 2016 was executed , canceling the said sale deed and prays for no objection certificate.

10. As seen from the record, the patta which was granted to the petitioner on 18.11.1996 shows that the said patta was granted under the landless poor category. As the patta is granted under landless poor category, the petitioner is not entitled to the benefit of G.O.Ms.No. 1117 dated 11.11.1993. The patta certificate was issued to the petitioner with a condition that “the land assigned shall be heritable but not alienable” . Hence the petitioner is not entitled to No Objection Certificate.

11. In view of the facts and circumstances, stated above, the 1st respondent rightly rejected the request of the petitioner for grant of no objection certificate for selling the land, assigned to the petitioner admeasuring an extent of Ac. 4.37 guntas situated in Sy.No.300/1 in Inmulnarva village of Kothur Mandal.

12. In the result, the Writ Petition is dismissed. No orders as to costs. Miscellaneous petitions, if any, pending in this writ petition, shall stand closed.

KONGARA VIJAYA LAKSHMI, J

Date: 24.07.2018
JR

HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Petition No. 23314 of 2007



Date: 24.07.2018

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