

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Petition No.3510 of 2006

Order:

This Writ Petition is filed questioning the allotment of lands to Indian Federation of Farmers Co-operative Societies (IFFCO) by the Mandal Revenue Officer, Kondavalur Mandal, Nellore District, as illegal and arbitrary and a consequential direction is sought to issue regular patta to the petitioner.

The brief facts of the case, according to the petitioner, are that he purchased the lands from the displaced persons of Sriharikota Rocket Launching Station, Nellore District, who were allotted the lands in terms of G.O.Ms.No.1024, Industries and Commerce Department, dated 02.11.1970, in the year 1985; when the Mandal Revenue Officer issued a notice on 11.12.1988 to the original assignees and tried to dispossess the petitioner and others, who are in possession of the lands, without giving an opportunity of hearing to them, the petitioner and others filed Writ Petition No.4976 of 1989; the said Writ Petition was disposed of directing the respondents to give an opportunity of hearing to the petitioner before taking possession of the land in question; pursuant to the said orders, the Mandal Revenue Officer issued notice on 06.02.1997 to the petitioner and others, for which they submitted their explanation, but without considering the explanation of the petitioner, the Mandal Revenue Officer passed the orders resuming the land of the petitioner to the Government on 26.04.1997; aggrieved by the same, the petitioner filed the present Writ Petition.

A counter affidavit has been filed by the Mandal Revenue Officer stating that an extent of Ac.909.74 cents of assigned land in Racherlapadu

and Regadichelika villages, Kodavalur Mandal, was resumed for public purpose on 05.01.1989, as the assignees violated the conditions of the assignment, and handed over the same to IFFCO; the Writ Petition is very vague and the petitioner did not give any particulars of the land in his affidavit i.e., what is the extent of the land, in which survey number the land is situated and from whom he has purchased the same; previously also the petitioner herein along with others filed WP No.18122 of 2003 and the said writ petition was dismissed; the petitioner has no *locus standi* to question the allotment of land to IFFCO.

Additional counter affidavit has also been filed by the District Collector, Nellore District, stating that pursuant to the notice issued by the Mandal Revenue Officer to the petitioner, the petitioner has submitted his explanation on 28.02.1997; contending that his representation was not considered for payment of compensation or for allotment of alternative land, the petitioner earlier filed W.P.No.18122 of 2003; since the original assignees are not in possession of the land, in accordance with G.O.Ms.No.1024, dated 01.11.1970, the persons, who have unauthorizedly and illegally purchased from the assignees, were given notices for resumption of the land and after the objections were received from them, the resumption orders were passed on 26.04.2007; while dismissing the earlier Writ Petition No.18122 of 2003, this Court observed that "the lands which were resumed on 26.04.1997 were the subject matter of award enquiry and since the Government is the owner of the lands, no compensation was fixed; it is not known whether the petitioners have participated in the award enquiry and made any claim in respect of resumption order or not; there is no force in the submission of the learned counsel for the petitioners for re-conveyance of the land to the petitioners

or for compensation”; however, in the said Writ Petition liberty was granted to the petitioners to assail the correctness of the resumption orders, if they are so aggrieved; the Government issued orders for payment of *ex gratia* to the cultivating ryots on humanitarian grounds under G.O.Ms.No.586, dated 09.07.1997, and that the action of the Collector, Nellore, was ratified by the Government in G.O.Ms.No.153, dated 16.03.1998.

A counter affidavit has also been filed by the respondents 5 and 6 stating that the Government assigned the subject lands by way of D-form pattas as per the general assignment policy to the displaced persons in view of the establishment of Sriharikota Launching Station at Nellore District with a clear condition of non-alienation clause, hence the purchase of the land by the petitioner is a void transaction and contrary to the terms and conditions of D-Form Patta; the authorities have initiated proceedings for resumption of land against the petitioner and his vendor in the year 1989; the petitioner challenged the initiation of resumption proceedings by way of WP No.4976 of 1989; the said writ petition was disposed of on 01.04.1996 and, as per the directions of this Court, after conducting an enquiry, the resumption orders were passed on 26.04.1997; the petitioner has not challenged the said resumption orders and they became final; the petitioner and others filed W.P.No.18122 of 2003 seeking release of the lands from the acquisition; the said writ petition was dismissed on 22.04.2004; the petitioner did not challenge the resumption orders dated 26.04.1997 and after lapse of 10 (ten) years he has filed the present Writ Petition by suppressing the fact of filing earlier Writ Petition No.18122 of 2003, hence the principle of *res judicata* applies and the present Writ Petition is not maintainable.

Heard Sri P. Lakshmana Rao, learned counsel for the petitioner, Sri E. Madan Mohan Rao, learned counsel for the respondents 5 and 6 – IFFCO and learned Assistant Government Pleader for Revenue.

As seen from the writ affidavit, no particulars whatsoever have been given by the petitioner as to what is the extent of land, in which survey number the land purchased by him is situated, when he purchased the land and from whom he purchased. It is also nowhere stated in the affidavit filed by the petitioner, as to how his vendor has acquired title to the land. The writ affidavit is absolutely bereft of any particulars whatsoever.

Further, as seen from the record, questioning the initiation of resumption proceedings, the petitioner and others filed W.P.No.4976 of 1989 and the said writ petition was disposed of on 08.11.1996 in terms of the judgment in WP No.22633 of 1995, dated 01.04.1996, wherein this Court directed the respondents not to interfere with the land of the petitioner without due process of law. In the light of the directions issued by this Court, notices were issued to the petitioners therein in the year 1997 and the petitioners submitted their explanation. On submission of the explanation, separate orders of resumption were passed on 26.04.1997; the petitioner has not challenged the said resumption orders and the said orders became final; without disclosing the filing of W.P.No.4976 of 1989, the petitioner and others filed W.P.No.18122 of 2003 with a prayer for release of the lands from acquisition. The said writ petition was dismissed on 22.04.2004 observing as follows.

“In the present case, lands were resumed on 26.04.1997, which are subject matter of award enquiry. Since the Government owns the lands, no compensation was fixed. Whether the petitioners have participated in

the award enquiry and made any claim in respect of resumption order is not forthcoming and no pleading to the said effect. In view of the same, I do not see any force in the submission made by the counsel for the petitioners for reconveyance of the lands to the petitioners or for compensation.”

From the above, it is clear that by suppressing the filing of previous Writ Petition No.4976 of 1989, Writ petition No.18122 of 2003 was filed by the petitioner and others and by suppressing the filing of Writ Petition No.18122 of 2003 the present Writ Petition is filed by the petitioner.

During the course of arguments, learned counsel for the petitioner placed before this Court the orders passed by the Hon'ble Supreme Court in Civil Appeal Nos.7904-7912 of 2012 and batch, dated 04.08.2014, filed by the APIIC and others. The Hon'ble Supreme Court dismissed the said Civil Appeals, but learned counsel for the petitioner could not demonstrate anything before this Court as to how the said case is relevant to the facts of the present case.

Learned counsel for the petitioner also relied on the orders of this Court passed in WP No.23208 of 2010, dated 04.11.2013. The said Writ Petition was disposed of directing the respondents therein to issue notification under Section 4(1) of the Land Acquisition Act, but the said Writ Petition was disposed of basing on the counter of the Tahsildar, Varadaiahpalem Mandal, Chittoor district, wherein he did not dispute that the petitioners therein are repatriates from Sriharikota and were assigned Government lands in terms of G.O.Ms.No.1024, dated 02.11.1970, and that the lands were resumed from them without reference to the proceedings of the Land Acquisition Act and without paying any *ex gratia*,

whereas, in the instant case, the petitioner does not disclose anything with regard to his title to the land.

Learned counsel for the petitioner also relied upon the judgments reported in *Tukaram Kana Joshi v. Maharashtra Industrial Development Corporation*¹, *LAO-cum-Revenue Divisional Officer, Chevella Division, Domalaguda, Hyderabad v. Mekala Pandu*², *S.R. Ejaz v. T.N. Handloom Weavers Cooperative Society Limited*³, *State of UP v. Manohar*⁴, *Jilubhai Nanbhai Khachar v. State of Gujarat*⁵ and *DLF Qutab Enclave Complex Educational Charitable Trust v. State of Haryana*⁶.

In all the said cases relied on by the learned counsel for the petitioner the petitioners are admittedly owners of the lands, but in the present case the petitioner did not give any particulars of the land. Hence, the said decisions are not at all relevant to the facts of the present case.

As stated supra, the petitioner challenged the initiation of resumption proceedings in the year 1989 by way of Writ Petition No.4976 of 1989. Pursuant to the directions of this Court in WP No.4976 of 1989, dated 08.11.1996, notices were issued and orders of resumption were passed on 26.04.1997. The petitioner has not challenged the said resumption orders and the said orders became final. Without disclosing the filing of W.P.No.4976 of 1989 and resumption orders, the petitioner and others filed W.P.No.18122 of 2003 and the said writ petition was dismissed by observing that the petitioners therein are not entitled for re-

¹ (2013) 1 SCC 353

² 2004(2) ALD 451 (LB)

³ (2002) 3 SCC 137

⁴ (2005) 2 SCC 126

⁵ AIR 1995 SC 142

⁶ (2003) 5 SCC 622

conveyance or for compensation. No appeal whatsoever has been filed by the petitioner against the orders in WP No.18122 of 2003. As the lands were already allotted to IFFCO in the year 1997 after collecting the compensation amount from them and as IFFCO is in possession and enjoyment of the said lands since 1997, the prayer of the writ petitioner to set aside the transfer of land in favour of IFFCO is untenable. Having regard to the facts and circumstances of the case, the Writ Petition is devoid of merit and the same is liable to be dismissed.

The Writ Petition is, accordingly dismissed. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

KONGARA VIJAYA LAKSHMI, J

Date: 30th August 2018
Nsr



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