

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**WRIT PETITION No.38432 of 2013**

**ORDER:**

Heard the learned counsel for petitioner, learned Government Pleader for Revenue appearing for respondent Nos.1 to 3 and Sri G.Seshadri, learned Standing Counsel for 4<sup>th</sup> respondent.

2. Petitioner contends that his family owns Ac.5.00 of land comprising Ac.3.54 cents in Sy.No.220 and Ac.1.50 cents in Sy.No.221/1 in Somavarapupadu village, Jaladhanki Mandal, SPSR Nellore District and that in 2003, this was occupied by the respondents and a Zilla Parishad High School had been constructed therein.

3. Petitioner relies on Rc.No.B.293/03 dt.05-09-2003 of the 3<sup>rd</sup> respondent addressed to the 2<sup>nd</sup> respondent informing him of the same as well as proceedings Rc.No.E6/6912/2003 dt.14-07-2006 issued by the office of the 2<sup>nd</sup> respondent in support of his contention that the said land has been utilized for use by the 4<sup>th</sup> respondent without following due process of law for acquiring the same.

4. He also relied on proceedings Rc.No.D3/8181/2003 dt.11-11-2013 of the 4<sup>th</sup> respondent admitting that in Ac.3.54 cents of land in Sy.No.220, Z.P. High School is existing and that the said land belongs to the petitioner.

5. Learned counsel for petitioner has also placed on record proceedings R.P.335/84-H2 dt.22-11-1996 of the Director of Settlements dropping *suo motu* proceedings under the A.P. (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 (for short “the Act”) and upholding granting of ryotwari patta to petitioner by the Settlement Officer, Nellore in proceedings R No.77/11(a)/79, dt.10-02-1983 whereunder ryotwari patta had been granted for Ac.3.54 cents in R.S.No.220 to the petitioner. He has also relied on adangals for the year 2002-2003 in respect of the land in Sy.No.221/1 showing the existence of Z.P. High School in Ac.1.50 cents which belongs to him.

6. No counter-affidavit has been filed by respondent Nos.1 to 3 though 5 years have elapsed in the matter. In the absence of any counter-affidavit filed by the Revenue Department refuting these contentions, it has to be taken that these documents relied upon by petitioner are genuine and that they establish the title of petitioner to both Ac.3.54 cents in Sy.No.220 and Ac.1.50 cents in Sy.No.221/1.

7. Sri G.Seshadri, learned Standing Counsel appearing for 4<sup>th</sup> respondent, however, has filed a counter-affidavit denying the averments of the petitioner and contending that the Z.P. High School is constructed in Sy.No.191. However, he does not dispute the fact that the land of the petitioner is being utilized as a High School play ground for the said school.

8. In the entire counter-affidavit filed by 4<sup>th</sup> respondent, the 4<sup>th</sup> respondent did not dispute the proceedings Rc.No.D3/8181/2003 dt.11-11-2013 issued by his own office stating that Ac.3.54 cents in Sy.No.220 has been utilized for Z.P. High School. The fact that the 4<sup>th</sup> respondent has not even adverted to the proceedings dt.11-11-2013 issued by his office indicates that the counter has been filed contrary to record and contains false averments.

9. The 4<sup>th</sup> respondent further stated that petitioner made an application to the District Collector for alternative land, but such land has not been allotted to the petitioner. He also stated that petitioner's father voluntarily donated the land to the Z.P. High School, though no material in support of the said pleading is filed.

10. Though there is a statement in para-5 that Government rejected claim of petitioner's father to grant ryotwari patta in respect of land in Sy.No.231/1 vide proceedings No.117/11(A)/82 dt.28-01-2004, no such order is produced by 4<sup>th</sup> respondent. He also stated that issuance of ryotwari patta to petitioner's father is pending before the authorities under the Act, which is belied by the order dt.22-11-1983 in R.P.No.335/84-H2 of the Director of Settlements, Hyderabad.

11. The title of the petitioner in respect of land in Sy.No.220 and 221/1 is also denied, but this contention cannot be accepted in view of the order dt.22-11-1996 of the Director of Settlements, Hyderabad and

the adangal for 2002-2003 filed by petitioner in respect of the land in Sy.No.221/1.

12. Therefore the Writ Petition is allowed with costs of Rs.10,000/- (Rupees Ten Thousand only) to be paid by 4<sup>th</sup> respondent to the petitioner within four (04) weeks from today. The respondents shall forthwith initiate proceedings under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013) for acquisition of extent Ac.3.54 cents in Sy.No.220 and Ac.1.50 cents in Sy.No.221/1 of Somavarapupadu village, Jaladhanki Mandal, SPSR Nellore District belonging to the petitioner and determine the amount of compensation payable to the petitioner under the said statute and pay the same to the petitioner within four (04) months from the date of receipt of copy of the order. If not, the 1<sup>st</sup> respondent shall take appropriate action against the 4<sup>th</sup> respondent under the A.P. Panchayat Raj Act, 1994 for willful disobedience of the orders passed by this Court.

13. As a sequel, miscellaneous applications pending, if any, shall stand closed.

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**JUSTICE M.S.RAMACHANDRA RAO**

Date: 31-07-2018  
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