

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION No.5389 OF 2006

ORDER:

This writ petition is filed challenging the order of the Joint Collector, Medak at Sangareddy, first respondent herein, in Case No.F.3/4437/95-F3/134/Inam/95, dated 29.12.2005, confirming the order of the Revenue Divisional Officer, Sangareddy, Medak, second respondent herein, in Proceedings No.B4/Inams/163/92, dated 20.03.1995, whereunder the second respondent granted Occupancy Rights Certificate in favour of respondent Nos.3 and 4 in respect of land admeasuring Ac.8-00 guntas in Sy.No.27, Ac.1-20 guntas in Sy.No.43 and Ac.1-20 guntas in Sy.No.69, situated at Jeerlapally Village, Jharasangam Mandal, Medak District.

2. It is the case of the petitioners that they are in possession and enjoyment of mafi inam lands admeasuring Ac.5-00 guntas in Sy.No.27/A, Ac.7-05 guntas in Sy.No.43/L and Ac.1-20 guntas in Sy.No.69, situated at Jeerlapally Village, Jharasangam Mandal, Medak District. While so, when respondent Nos.3 and 4 tried to interfere with the possession of the petitioners over the said lands, they filed a suit in O.S.No.119 of 1992 for perpetual injunction on the file of the Court of District Munsif Magistrate at Zaheerabad and the same was decreed. Challenging the said judgment of the said Court, respondent Nos.3 and 4 filed an appeal in A.S.No.42 of 1995 on the file of the Court of Additional

District Judge, Sanga Reddy and the same was dismissed. However, respondent Nos.3 and 4 also filed O.S.No.83 of 1992 for perpetual injunction against the petitioners herein on the file of the Court of District Munsif Magistrate at Zaheerabad in respect of land admeasuring Ac.2-22 guntas in Sy.No.27A & E of Jeerlapally Village, Jharasangam Mandal, Medak District and later it was withdrawn. Thereafter, respondent Nos.3 and 4 filed O.S.No.90 of 1995 for declaration and consequential relief of perpetual injunction against the petitioners on the file of the Court of Junior Civil Judge at Zaheerabad in respect of land admeasuring Ac.8-00 guntas in Sy.No.27 and there was no claim with regard to the lands in Sy.Nos.43 and 69. The said suit was also dismissed.

3. In the meanwhile, respondent Nos.3 and 4 filed an application before the second respondent requesting him to grant Occupancy Rights Certificate in their favour in respect of land admeasuring Ac.8-00 guntas in Sy.No.27, Ac.1-20 guntas in Sy.No.43 and Ac.1-20 guntas in Sy.No.69, situated at Jeerlapally Village, Jharasangam Mandal, Medak District. The second respondent, by order dated 28.03.1995, passed orders granting Occupancy Rights Certificate in favour of respondent Nos.3 and 4 in respect of said lands. Aggrieved by the said order, the petitioners preferred an appeal before the first respondent, who by order dated 29.12.2005, dismissed the same. Challenging the same, the petitioners filed the present writ petition.

4. Heard.

5. It is apparent from the order of the second respondent dated 28.03.1995 that it has been passed in gross violation of principles of natural justice, as he has not indicated as to what records he has perused in coming to the conclusion to grant Occupancy Rights Certificate in favour of respondent Nos.3 and 4. The second respondent has not stated particulars of the local enquiry he has caused and furnishing of enquiry report on the affected parties. Hence, the action of the second respondent is apparently biased, without giving a fair opportunity and is unjust.

6. The first respondent, sitting in appeal, has not acted independently and judiciously. He totally relied upon the parawise remarks and reiterated the orders of the second respondent. He did not deal with the contentions of the petitioners. Therefore, the orders of respondent Nos.1 and 2 are liable to be set aside.

7. Accordingly, the writ petition is allowed setting aside the order of the first respondent in Case No.F.3/4437/95-F3/134/Inam/95, dated 29.12.2005, in confirming the order of the second respondent in Proceedings No.B4/Inams/163/92, dated 20.03.1995. No costs. Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 20.07.2018
TJMR