

* THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

+ WRIT PETITION No.3057 OF 2006

% 16—03—2018

Petluru Neeraja Reddy and Another

...Petitioners

vs.

\$ The Revenue Divisional Officer-cum-Chairman, Land
Reforms Tribunal, Gudur, Nellore District & Another

... Respondents

!Counsel for the Petitioners : SRI P.SRIDHAR REDDY

^Counsel for the Respondents : G.P. FOR REVENUE (A.P)

<Gist :

>Head Note :

? Cases referred



IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

* * * *

WRIT PETITION No.3057 OF 2006

Between:

Petluru Neeraja Reddy and Another

....Petitioners

And

The Revenue Divisional Officer-cum-Chairman, Land
Reforms Tribunal, Gudur, Nellore District & Another

....Respondents

JUDGMENT PRONOUNCED ON: 16.03.2018

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? :
2. Whether the copies of judgment may be
Marked to Law Reporters/Journals? :
3. Whether His Lordship wishes to
see the fair copy of the Judgment? :

T.AMARNATH GOUD, J

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD**WRIT PETITION NO.3057 OF 2006****ORDER:**

This writ petition is filed challenging the action of the Revenue Divisional Officer-cum-Chairman, Land Reforms Tribunal, Gudur, Nellore District, first respondent herein, in not considering the application of the petitioners for restoration of the excess land surrendered by their maternal uncle Sri Pelleti Venkatram Reddy and grandmother Smt.Pelleti Kamalamma under the provisions of the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1975 (for short, the Act) and further action of the second respondent in intending to assign the said excess land in favour of the third parties.

2. The case of the petitioners is that Pelleti Venkataram Reddy, the maternal uncle of the petitioners, filed declaration in C.C.No.1930/1975 before the Land Reforms Tribunal, Nellore (Tribunal) under Section 8 of the Act, declaring the lands held by him. So also, Smt.P.Kamalamma, the maternal grandmother of the petitioners, filed declaration in C.C.No.1931/1975 before the Tribunal. The Tribunal passed a common order dated 28.06.1977 in respect of the above two declarants along with three other declarants who are Pelleti family members. P.Venkatram Reddy and Smt.P.Kamalamma were computed that they were holding land equivalent to 2.3857 standard holdings. Thereafter, the matters were carried in appeal by some of the declarants and also revisions before this Court. On remand, the holdings were re-determined by

the Tribunal by order dated 29.10.1992. In the re-determined order, the holdings of P.Venkatram Reddy and Smt.P.Kamalamma were determined at 2.0979 standard holdings each and were directed to surrender 1.0979 standard holdings each. During the pendency of the above litigation before the Court and the Tribunal, P.Venkatram Reddy, who was unmarried, executed a registered Will dated 16.04.1979 bequeathing his estate in favour of the first petitioner herein. Later, P.Venkatram, died on 24.12.1981.

3. Smt.P.Kamalamma, during her life time, executed a Will and Testament dated 20.10.1976 bequeathing her property in favour of the mother of the first petitioner by creating life interest and vested remainder in favour of the second petitioner. Smt.P.Kamalamma died on 03.08.1983. Thereafter, the mother of the petitioners executed a relinquishment deed dated 01.12.1984 in favour of the second petitioner.

4. After the death of P.Venkatram Reddy and Smt.P.Kamalamma, both the petitioners came on record as their legal heirs and contested the matter before the Tribunal and the concerned authorities. It was noticed by the authorities that the petitioners surrendered excess land than what was required to be surrendered in C.C.Nos.1930/1975 and 1931/1975. The lands required to be surrendered in C.C.No.1930/1975 and C.C.No.1931/1975 was 1.0979 standard holding each, but the lands actually surrendered was 1.1763 standard holding each. Thus, an excess land equivalent to 0.1568 standard holding has

been surrendered by each petitioner. The authorities in their orders dated 11.01.1993, 29.03.1993, 10.09.1993, 22.11.1993 and 11.03.1994 accepted that the petitioners surrendered excess land admeasuring Ac.55-23 cents each, totally admeasuring Ac.110-46 guntas, situated at East Gudur Village, Gudur Mandal, Nellore District.

5. The petitioners represented the matter before the first respondent for restoration of excess land surrendered by them. In pursuance thereof, the first respondent by his proceedings dated 24.09.1999, directed the second respondent to send a report about the availability of the lands. The second respondent caused enquiry and submitted a report dated 14.03.2000 stating that the land has not been distributed to anybody and the same is available. The first respondent, on 24.07.2004, endorsed upon the file of the petitioners stating that the action would be taken on the representation of the petitioners only after other declarants surrender the excess land which was required to surrender. The petitioners once again represented the matter on 09.09.2004 before the first respondent to restore the land admeasuring Ac.4.55 cents in Sy.Nos.1014/A, C & D and Ac.1-94 cents in Sy.No.1898 of Gudur Village, which is equivalent to 0.1538 standard holding, but the first respondent did not take any action and the matter is pending with him since then. At that juncture, when the second respondent was taking steps to assign the lands belonging to the petitioners to the third parties, the present writ petition was filed.

6. The respondents filed counter-affidavit stating that orders were passed by determining the holdings under Section 9 of the Act in respect of the 5 declarants of Pelleti family in 5 separate cases. In pursuance of the surrender of surplus lands, orders under Section 10(3) of the Act were passed on 11.01.1993 by the Additional Revenue Divisional Officer, Nellore, accepting the surrender of the lands of P.Venkatram Reddy in C.C.No. 1930/GDR/1975. In C.C.No.1931/GDR/1975, Smt.P.Kamamma also surrendered her share of excess land. Further, in addition to the lands surrendered by P.Venkatram Reddy and Smt.P.Kamamma, the petitioners herein have surrendered an extent of land Ac.2-27½ cents each as per the orders issued by the Additional Revenue Divisional Officer, Nellore under Section 10(3) of the Act, dated 29.03.1993. The Additional Revenue Divisional Officer, Nellore, has issued proceedings dated 11.03.1994 for the lands surrendered by the declarants, as per which, the petitioners surrendered an excess land to an extent of 0.1164 standard holding, in excess to the extent determined surplus against them.

7. Thereafter, the petitioners have requested the first respondent to re-convey the excess land surrendered in their favour. However, since the other declarants in C.C.No.1977/GDR/75 of Pelleti Satyanarayana Reddy and C.C.No.1976/GDR/75 of Pelleti Venkata Subba Reddy had to surrender the lands to an extent of 3.5358 standard holdings, the request of the petitioners to re-convey was not considered and accordingly the endorsement was issued on 24.01.2004.

8. Sri P.Sridhar Reddy, learned counsel for the petitioners, argued that the petitioners are entitled for re-conveyance of their excess lands which have been surrendered to the respondents. By relying on Rule 10-A of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Rules, 1974, he argued that the petitioners have nothing to do with the other declarants.

9. Sri Darapu Krishna, the learned Assistant Government Pleader for Revenue (Andhra Pradesh), representing the respondents, supported the impugned endorsement of the first respondent and vehemently argued that the case of the petitioners cannot be considered, as the entire lands were not surrendered by the other declarants and thus the case of the petitioners was not considered.

10. The Andhra Pradesh Ceiling on Agricultural Holdings Act, 1961 provided imposition of a ceiling on agricultural holdings ranging from 27 acres to 324 acres depending on the class of land. Thereafter, the Central Committee on Land Reforms have considered various issues and recommended that the level of the ceiling on agricultural land for a family of five members should be fixed between a minimum of 10 acres and a maximum of 54 acres keeping in view the nature of soil, rainfall, chronic drought conditions, etc. In the above background, the comprehensive legislation for the imposition of ceiling on agricultural land holding in the State of Andhra Pradesh has been introduced by way of the present Act of 1973, replacing the Act of 1961, by fixing the

standard holdings ranging from 12 acres to 27 acres in the case of wet land and from 30 acres to 54 acres in the case of dry land as per the classification of the lands basing on the revenue records in the State Government.

11. As per Section 3(f) of the Act, 'family unit' means:

“(i) in the case of an individual who has a spouse or spouses, such individual, the spouse or spouses and their minor sons and their unmarried minor daughters, if any;

(ii) In the case of an individual who has no spouse, such individual and his or her minor sons and unmarried minor daughters;

(iii) in the case of an individual who is a divorced husband and who has not remarried, such individual and his minor sons and unmarried minor daughters, whether in his custody or not; and

(iv) where an individual and his or her spouse are both dead, their minor sons and unmarried minor daughters.

Explanation :- Where a minor son is married, his wife and their offspring, if any, shall also be deemed to be members of the family unit of which the minor son is a member.”

12. As per Section 3(s), 'standard holding' means the extent of land specified in Section 5 to be the standard holding. Section 4 defines Ceiling Area and it reads as follows:

“4. Ceiling Area:

(1) The ceiling area in the case of family unit consisting of not more than five members shall be an extent of land equal to one standard holding.

(2) The ceiling area in the case of a family unit consisting of more than five members shall be an extent of land equal to one standard holding plus an additional extent of one fifth of one standard holding for every such member in excess of five so however that the ceiling area shall not exceed two standard holdings.

(3) The ceiling area in the case of every individual who is not a member of a family unit, and in the case of any other person shall be an extent of land equal to one standard holding.

Explanation:- In the case of a family unit, the ceiling area shall be applied to the aggregate of the lands held by all the members of the family unit.

13. Section 5 deals with Standard Holding for Different Classes of Lands and Computation. Section 8 deals with Declaration of Holdings. Section 9 deals with Determination of Ceiling Area, Section 10 deals with Surrender of lands in Certain cases, Section 11 deals with Vesting of land Surrendered and Section 12 deals with Reversion and Vesting of land Surrendered.

14. Rule 10 deals with disposal of lands vested in the Government. Under Rule 10-A, which was inserted by G.O.Ms.No.611, Rev. (G), dated 25.05.1977, certain procedure has been laid down for re-transfer of land vested in the Government in certain cases. The argument advanced on behalf of the respondent is untenable as the provisions of the Act and the Rules have not specifically stipulated that only on surrender of the lands by all the declarants in the family, the case of a declarant in the family for re-transfer of land vested in the Government would be considered. It is to be noted that Pelleti family members have filed five separate declarations and each case file was dealt with separately and they all different and distinct in nature in respect of their right and claim over the properties. Since the petitioners have succeeded to the property of their maternal uncle and grandmother as stated supra, the endorsement made by the first respondent stating that unless and until the other family members would surrender the lands in other cases it would not be possible to take action on the application of the petitioners, cannot be appreciated and it is not

supported by any legal provision. Therefore, the endorsement made by the first respondent is liable to be set aside.

15. For the reasons stated above, the writ petition is allowed, setting aside the endorsement of the first respondent dated 24.07.2004, with a direction to the first respondent to consider the case of the petitioners for surrender of lands afresh, in accordance with law, within a period of three months from the date of receipt of a copy of this order. No costs. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

Date: 16-03-2018

Note: L.R. to be marked. Yes.
B/o.TJMR

T.AMARNATH GOUD, J

