THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 3627 of 2007

O R D E R:

This Writ Petition has been filed to declare the action of the 1st respondent Special Chief Secretary to Government in issuing the Memo dated 02.11.2006, directing resumption of the land in an extent of Acs.4.28 in Survey No. 869/1, C.K. Dinne Village and Mandal which was alienated in favour of the petitioner - Secretary, Sree Raghavendra Pasu Samrakshana Sangham, Kadapa for establishment of Animal Welfare Centre associated with bio-fertiliser project, etc., on payment of market value of Rs.1,50,000/- per acre, by cancelling alienation order duly following the procedure as per law, and the consequential notice of the 3rd respondent Mandal Revenue Officer, dated 06.02.2007 issued to the petitioner to hand over the above-said land, as illegal and arbitrary.

The brief facts stated in the affidavit are as follows:

The petitioner – society is a voluntary organization registered under the provisions of the Societies Registration Act, 1860, on 12.06.1995, with an avowed object to develop measures for protection / rearing of cattle, take care of stray cattle and to persuade the owners not to send their animals to slaughter houses for commercial profit.

The petitioner approached the District Collector, Kadapa for assignment of a suitable land to establish animal welfare centre associated with bio-fertiliser project for the benefit of farmers in Kadapa District, which representation was forwarded to the 3rd respondent to consider the availability of land for assignment. On submission of alienation proposals dated 19.05.2005 by the 3rd respondent, the District Collector fixed the market value at Rs.1,50,000/- per acre and through the proceedings dated 10.10.2005, ordered alienation of Acs.4.24 cents in Survey No. 869/1 of C.K. Dinne Village in favour of the petitioner, pursuant to which, it deposited Rs.6,42,000/- in the Treasury, Kadapa and the 3rd respondent handed over the possession of the above-said land to it.

The Central Government, on 22.03.2004, sanctioned an amount of Rs.18,67,500/- towards grant-in-aid for setting up projects under the scheme for provision of shelter house for looking after the animals. Under the said scheme, the petitioner was released half of the said amount to set up the project in the land purchased by it. While so, some persons, under the influence of political parties, started objecting to the construction work undertaken by the petitioner and demanding huge amounts from it. The petitioner, therefore, filed complaints, but the police have not taken any action thereon. Hence, it is stated that seeking a direction to the police officilals, Writ Petition No. 5596 of 2006 was filed. However, all of a sudden, the 3rd respondent issued the notice dated 06.02.2007 directing the petitioner to hand over the possession of the subject land, referring therein the memo dated 02.11.2006 issued by the 1st respondent. The petitioner therefore, filed the present Writ Petition on the ground that the respondents have no authority to cancel the alienation as the entire sale consideration was paid and possession of the land was also taken and that the Memo dated 02.11.2007 is opposed to law, inasmuch as the respondents having transferred the property in favour of the petitioner cannot unilaterally resort to its cancellation.

The petitioner filed the additional material papers, which included the counter-affidavit filed by the Mandal Revenue Officer in Writ Petition No. 5596 of 2006, proceedings, dated 28.12.2006 of the District Collector addressed to the 1st respondent and the photographs evidencing that the construction work is in full swing.

When the matter is taken up for hearing, learned counsel for the petitioner also filed electricity bills for the months of November and December 2017 and February and March, 2018 and some more photographs to support their contention that the petitioner is in possession of the subject land and the animal welfare centre is being run therein.

In spite of the fact that the Writ Petition came to be admitted on 05.03.2007, the respondents have not chosen to file any counter. This Court, noticing that no counter-affidavit was filed in this case, on 02.04.2018, acceding to the request of the learned Government Pleader for Revenue, adjourned the matter, but the counter-affidavit has not been filed as on date. In those circumstances, based on the material available on record and after hearing the learned counsel for the petitioner, the Writ Petition is taken up for consideration and disposal.

None of the facts stated in the affidavit are controverted and further, the material placed before this Court by the petitioner clearly establishes that the subject land has been put to its effective use by the society even by the time the present Writ Petition was filed.

In this factual backdrop, it is appropriate to have a glance at the proceedings dated 02.11.2006, which reads as under:

> " In the circumstances reported by the Collector, Kadapa and the Chief Commissioner of Land Administration, Hyderabad in the reference cited, Government after careful examination of the proposal hereby directed the Collector, Kadapa to resume the lands in S.No. 869/1 ext. 4.28 acres of C.K. Dinne Village and Mandal which was alienated in favour of Secretary, Sree Raghavendra Pasu Samrakshana Sangham, Kadapa for establishment of Animal welfare centre associated with bio-fertilizer project etc. on payment of market value of Rs.1,50,000/- per acre by cancelling alienation order duly following the procedure as per law.
>
> The District Collector, Kadapa shall take necessary action in the matter accordingly under intimation to Govt. immediately."

A reading of the impugned proceedings does not indicate what were the circumstances reported by the Collector and the Chief Commissioner of Land Administration that prompted the government to direct resumption of the land granted in favour of the petitioner. It may be noted that by the time the resumption orders were passed, as a matter of fact, the petitioner had commenced the construction work by depositing the amounts directed to be paid in the Memo dated 02.11.2006 while allotting the land to the petitioner. The site handover certificate was also issued on 18.10.2005. It is not the case of the respondents, at any point of time that the petitioner has either violated the conditions of grant or the land is not being utilized for the purpose for which it was allotted. The specific assertion of the petitioner that the institution was granted certain funds by the Central Government was also not in dispute.

Hence, in the absence of any reason assigned by the respondents in the impugned memo and more importantly, in the absence of any material to show that the petitioner had violated any of the conditions of grant or not utilized the land for the purpose for which it was granted, the action of the respondents in directing resumption of land can be said as wholly arbitrary and illegal.

In those circumstances, the Writ Petition is allowed, making it clear that in view of the developments, which have taken place and also in view of the fact that the petitioners had developed the animal welfare centre spending huge money which is beneficial to the rural population, particularly encouraging the animal husbandry activities, if at all the respondents require the subject land for any public purpose, they shall be entitled to take the same strictly adhering to the law laid down by the judgment rendered by the five-judge Bench of this Court in *Land Acquisition Officer-cum-Revenue Divisional Officer v. Mekala Pandu*[1]. No costs.

Consequently, the miscellaneous Applications, if any stand closed.

CHALLA KODANDA RAM, J

17th April 2018

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[1] AIR 2004 AP 250