

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

I.A.No.1 of 2018
in/ and
Writ Petition No.12060 of 2002

Order:

This Writ Petition is filed to declare the action of the respondents in dispossessing the petitioner from the land admeasuring Ac.4.69 cents, situated in Survey No.708/3A of Basinikonda revenue village, Madanapalle Mandal, Chittoor District, pursuant to the proceedings dated 01.06.2002, as illegal and arbitrary.

The case of the petitioner is that the subject land was in possession of his father for more than 60 years and the 1st respondent granted DKT Patta in favour of the petitioner vide AM No.46/4/1401, dated 26.12.1990, admeasuring an extent of Ac.4-69 cents in Survey No.708/3A of Basinikonda revenue village, Madanapalle Mandal, Chittoor District; as he underwent bye-pass surgery, he requested his relatives to look after the said land; while so, the respondents asked the petitioner's brother-in-law to vacate the said land stating that they are going to acquire the said land for public purpose; the petitioner filed W.P.No.8227 of 1998 seeking similar relief against the Revenue Divisional Officer and the Mandal Revenue Officer; the said Writ Petition was disposed of by this Court, by an order dated 27.03.1998, directing the respondents not to interfere with the possession of the petitioner over the subject land without recourse to law, provided the subject land was not resumed in favour of the State for public purpose before and in the said order it was also made clear that if the said land is required for public purpose, that order shall not come in the way of the respondents for taking steps to resume the land in accordance with law; now the 3rd respondent – A.P. Industrial

Infrastructure Corporation Limited (APIIC), by virtue of the powers vested under the A.P. Public Premises (Eviction of Unauthorized Occupants) Act, 1968 (for short 'the Act'), has passed the impugned eviction order dated 01.06.2002 against the petitioner by making his sister as a party and under the guise of the said eviction orders the respondents are trying to dispossess the petitioner from the subject land.

A counter affidavit has been filed by the 2nd respondent - Tahsildar on 08.03.2009 stating, *inter alia*, that an extent of Ac.36.86 cents of Government land situated in Survey Nos.708/3A, 708/3B, 708/3C, 708/5, 713, 718/9, 718/10, 720/3, 718/6, 708/4, 715, 708/1, 702, 708/2A, 708/2B, 718/1 and 718/3 of Basinikonda village, which includes the land in Survey No.708/3A, admeasuring Ac.4.69 cents, as claimed by the petitioner, has been proposed for alienation to APIIC on payment of market value and the advance possession of different extents of land was also handed over to APIIC on three different dates i.e., 06.12.1991, 15.12.1992 and 17.10.1997; since then APIIC has been in possession of the said land; the land in Survey No.708/3A, admeasuring Ac.4.69 cents, was classified as AWD land in the village accounts of Basinikonda; it was not assigned to anybody; the AM file No.46/4/1401 claimed by the petitioner, relates to the land in Survey No.551/1B, admeasuring an extent of Ac.2.81 cents of B.K. Palle village, which was assigned in favour of one Smt. Siddala Reddemma, W/o Venkatramana Reddy, and the said AM file does not relate to the subject land of the writ petition; as the subject land is classified as AWD (Government land) in the village accounts of Basinikonda, neither the petitioner nor his relatives are entitled to the said land; the petitioner is a wealthy pattadar, pensioner

and doing number of businesses in the town; the land is required for communal purpose i.e., for establishment of Autonagar.

Counter affidavit has been filed by respondent No.3 – APIIC in 2009 stating that APIIC filed requisition for an extent of Ac.41.92 cents; the subject land along with other lands was handed over to them on 06.11.1991; APIIC deposited an amount of Rs.18.60 lakhs towards market value on 03.07.1995; proceedings under the A.P. Public Premises (Eviction of Unauthorized Occupants) Act, 1968, have been initiated against Smt. P. Dhanalakshmi who is in unauthorized occupation of the land by issuing a show cause notice dated 02.03.2002 and after giving an opportunity, eviction orders were passed on 01.06.2002.

Learned counsel for the petitioner filed WPMP No.22573 of 2012 to receive the additional documents and the said petition was allowed by this Court on 09.07.2014. In the affidavit filed in support of the petition it is stated that the petitioner is cultivating the said land; the 3rd respondent has no title to the property as alienation proposal was not processed; APIIC through their letter dated 12.03.2004 informed CCLA about the withdrawal from land acquisition proposals in respect of the land to an extent of Ac.17.63 cents covered by Survey Nos.711, 714 etc., of Basinikonda village and that these developments are subsequent to filing of the Writ Petition. Learned counsel for the petitioner submits that as the APIIC has addressed a letter on 12.03.2004 informing CCLA about withdrawal from acquisition the writ petition has to be allowed and that the petitioner should not be dispossessed from the subject land.

Counter affidavit is filed by APIIC to the said WPMP No.22573 of 2012 stating that the APIIC filed a requisition to allot the land in Basinikonda village for establishment of Autonagar; advance possession of

an extent of Ac.32.57 cents was given to them on 06.11.1991, 15.10.1992 and on 17.10.1997; apart from Ac.32.57 cents of land, which was handed over to them for establishment of Autonagar, draft notification was issued for an extent of Ac.17.63 cents of patta land in Survey Nos.711, 714, 716, 703, 718/2, 718/11, 717, 718/4a and 718/4b of Basinikonda village; the Land Acquisition Officer, Madanapalle requested APIIC to deposit Rs.1,34,00,000/- towards compensation for an extent of Ac.17.63 cents of patta land and an extent of Ac.8-00 cents of DKT lands, total Ac.25.63 cents; Autonagar Welfare Association was requested to deposit a sum of Rs.25.00 Lakhs towards part of land compensation, but the said Association did not deposit the said amount, hence, by letter dated 26.06.2000, addressed to the District Collector, the APIIC had withdrawn the proposal of acquiring Ac.25.63 cents (Ac.17.63 cents of patta land and Ac.8-00 of DKT land) and the same was informed to the CCLA, Hyderabad, vide letter dated 12.03.2004, and the APIIC had decided to establish Autonagar in Ac.32.57 cents of land, which was already taken possession from the Revenue Department on payment of market value; in the said process, the Revenue Divisional Officer and the District Collector have asked the APIIC to handover Ac.32.57 cents of land which is in possession of APIIC back to the Revenue Department for implementation of public welfare schemes such as Rajeev Gruhakalpa and Indiramma Housing Programmes for construction of houses to poor people; the Government has taken up digging of HNSS Canal through a part of Ac.32.57 cents of land proposed for Autonagar; hence vide letter dated 29.01.2010, the Tahsildar has been requested to take possession of Ac.32.57 cents for utilization of Government Schemes such as Indiramma Houses and Rajiv Swagruha; though the revenue officials were requested

vide letter dated 29.10.2010 to take back the land for implementation of public schemes and to refund the amount, the revenue officials have not taken back the subject land and did not refund the amount and that the land is still in possession of APIIC; the revenue officials worked out the actual extent of available land at Basinikonda excluding the lands covered under HNSS Canal (about 22.45 cents) and encroachments and pending cases (about Ac.3-77 cents) is Ac.6.37 cents; when the revenue officials were asked to show any suitable land for establishment of Autonagar, an extent of Ac.27.31 cents in Molakaladinne village was shown, but the said land is covered with huge boulders and possession was not given to APIIC, as there is no alternative land available for establishment of Autonagar, it was decided to evict the encroachments in Ac.32.57 cents of land under the Act; petitioner is a third party to the proceedings and has no locus in the matter.

Basing on the above pleadings the Writ Petition was heard for final hearing on 10.08.2018 and the matter was reserved for judgment. On 14.08.2018 the learned counsel for the petitioner filed an additional affidavit with certain documents. As the additional affidavit along with the documents is filed in the registry, after the judgment is reserved, without the permission of the Court, the matter was listed on 30.08.2018, under the caption "for being mentioned". On that day, learned Assistant Government Pleader sought time to file a counter affidavit to the additional affidavit filed by the petitioner. The matter was listed on 14.09.2018 and counter was filed by the Revenue Divisional officer to the additional affidavit and the matter was adjourned to 20.09.2018. On 20.09.2018, this Court noticed that on 14.09.2018, the petitioner filed reply affidavit and additional affidavit along with I.A.No.1 of 2018 to

appoint an advocate-commissioner, again without the permission of the Court and after the matter is reserved. Ultimately the matter was reserved for orders on 28.09.2018.

Heard Sri M.V. Raja Ram, learned counsel for the petitioner, Smt. Jayanthi, learned Standing Counsel for APIIC and also Government Pleader for Revenue and perused the record.

The main contention of the learned counsel for the petitioner is that the petitioner was granted DKT patta vide File AM No.46/4/1401, dated 26.12.1990, for an extent of Ac.4.60 cents in Survey No.708/3A of Basinikonda village and since then he has been in possession of the said land and as the petitioner was suffering from heart disease he requested his sister Dhanalakshmi to look after the cultivation on his behalf and that they are in possession of the same. It is also contended that the 3rd respondent asked the petitioner's sister to vacate the land and no notice has been issued to the petitioner before passing the eviction order dated 01.06.2002.

His second contention is that as APIIC has addressed a letter dated 12.03.2004 to the Chief Commissioner of Land Administration about withdrawing from acquisition and hence his possession cannot be interfered with. Both the contentions cannot be accepted because according to the counter filed by the Tahsildar – respondent No.2, neither the petitioner nor his father was granted DKT patta at any point of time and in the affidavit filed by the petitioner he mentioned the DKT patta File number as AM No.46/4/1401, but the Tahsildar has categorically stated in his counter that the said AM File No.46/4/1401 relates to the land in Survey No.551/1B, admeasuring Ac.2.81 cents, of B.K. Palle village, which was assigned in favour of one Smt. Siddala Reddemma and said patta

does not relate to the subject land. Even according to the affidavit filed in support of the writ petition, petitioner is not in possession of the land and that he asked his sister to look after the land.

The contention of the petitioner that he was in continuous possession of the subject land and as he became ill in 1997 he asked his sister to take care of the land cannot be believed, because the discharge summary of the Care Hospital filed by the petitioner along with the writ petition is pertaining to the year 1997, but the impugned order is passed in 2002. Admittedly, the petitioner was not in possession of the subject land as on the date of passing of the impugned order dated 01.06.2002 and the impugned order was issued in the name of one Peravalli Dhanalakshmi who was in possession of the subject land as on that date. As seen from the impugned order dated 01.06.2002, a show cause notice was issued to the addressee of the show cause notice on 02.03.2002 and as no explanation was submitted, again a reminder was issued to her on 26.04.2002 and at the request of her counsel, time was further extended up to 20.05.2002, but again the counsel requested some more time and again time was extended up to 30.05.2002, but the said Dhanalakshmi did not submit any explanation to the show cause notice and failed to avail the opportunity of personal hearing, hence the impugned order was passed directing the said Dhanalakshmi to vacate the subject land.

It is also relevant to note here that the subject land under the impugned notice is only for an extent of Ac.2.25 cents, out of the total extent of AC.4.69 cents, situated in Survey No.708/3A of Basinikonda village, but the petitioner sought the relief for an extent of Ac.4.69 cents in the said survey number.

The letter of APIIC, dated 12.03.2004, which is referred to by the petitioner, is addressed by APIIC to CCLA merely asking for certain documents. The said letter does not contain the survey number mentioned by the petitioner in his affidavit. It refers to withdrawing from acquisition of patta land of Ac.17-63 cents and DKT land of Ac.8-00, total Ac.25.63 cents, in different survey numbers, which is totally a different land.

Learned Government Pleader passed on a copy of letter dated 07.08.2018 addressed to her by the Tahsildar stating that the Tahsildar inspected the subject land on 07.08.2018 and noticed that HNSS Canal is passing through the subject survey number and the total extent of Ac.4.69 cents of land in Survey No.708/3A is covered with HNSS Canal and that no vacant land is available in the said survey number.

Petitioner also contended that previously he filed Writ Petition No.8227 of 1998 and by virtue of the direction in the said writ petition he should not be dispossessed from the subject land. The said writ petition was filed by the petitioner in the year 1998 and the prayer in the writ petition is not to acquire the land. It was disposed of at the admission stage on 27.03.1998 on the premise that the petitioner was granted DKT patta in respect of Ac.4.69 cents in Survey No.708/3A. It was observed in the said order as follows.

“.....Although the affidavit filed in support of the writ petition is vague, the petitioner’s counsel on instruction submitted that DKT Patta granted to the petitioner in the year 1990 at no point of time was cancelled nor the land was resumed by the respondents for any public purpose. When the matter stood thus, according to the petitioner, the respondents are threatening to dispossess him from the land in question. If the allegations of the petitioner are correct,

the action of the respondents would not be in conformity with the principles of natural justice and fair play-in-action.

In that view of the matter, I dispose of the writ petition directing the respondents not to interfere with the possession of the petitioner over an extent of Ac.4.69 cents in Survey No.708/3A of Basinikonda Revenue village, Madanapalle Mandal, Chittoor District, without recourse to law, provided the aforementioned land was not resumed in favour of the State for public purpose before.

It is also made clear that if the said land is required for public purpose, this order shall not come in the way of the respondents for taking steps to resume the land in accordance with law.”

As seen from the said order, it is clear that the said writ petition was disposed of at the admission stage on the presumption that the DKT Patta was granted to the petitioner in the year 1990 and that the land was not resumed by the respondents for any public purpose. But, the order categorically directs the respondents not to interfere with the possession of the petitioner without recourse to law, provided the land was not resumed in favour of the State for public purpose before. As seen from the counter affidavits, the petitioner was not granted DKT Patta at any time and the subject Survey No.708/3A is classified as AWD land and advance possession was already given to APIIC on 06.12.1991 much prior to the order in the writ petition dated 27.03.1998. Hence, the order in the said writ petition will not come to the aid of the writ petitioner. Admittedly, the petitioner was not in possession of the subject land. Moreover, the prayer in the writ petition is to declare the action of the respondents in dispossessing the petitioner from the subject land as illegal and arbitrary, which itself shows that the petitioner was not in possession of the land and that he was already dispossessed.

As seen from the counter affidavits, the Government land to an extent of Ac.36.86 cents, situated in Survey Nos.708/3A, 708/3B, 708/3C, 708/5, 713, 718/9, 718/10, 720/3, 718/6, 708/4, 715, 708/1, 702, 708/2A, 708/2B, 718/1 and 718/3 of Basinikonda village, which includes the land in Survey No.708/3A, admeasuring Ac.4.69 cents, as claimed by the petitioner, has been proposed for alienation to APIIC on payment of market value and the advance possession was also handed over to APIIC, on 06.12.1991 for establishment of Autonagar and the said land in Survey No.708/3A stands recorded as AWD land in the village accounts. Apart from the said land, draft notification and declaration under the Land Acquisition Act were published in 1998 for an extent of Ac.17.63 cents of patta land and Ac.8-00 of DKT land in Survey Nos.711, 714, 716, 703, 718/2, 718/11, 717, 718/4A and 718/4B of Basinikonda village. The Land Acquisition Officer, Madanapalle also requested APIIC to deposit an amount of Rs.1,34,00,000/- towards compensation for an extent of Ac.17.63 cents of patta land and for an extent of Ac.8-00 of DKT land, totally admeasuring Ac.25.63 cents, and Autonagar Welfare Association was requested to deposit a sum of Rs.25.00 Lakhs towards part of compensation and when they did not respond, a letter was addressed to the District Collector on 26.06.2000 withdrawing the proposal of acquiring the said land and the same was informed to CCLA on 12.03.2004 and APIIC has decided to establish Autonagar in Ac.32.57 cents of land which was already taken possession from the Revenue Department on payment of market value of Rs.22.10 Lakhs and during the process the District Collector asked the APIIC to hand over Ac.32.57 cents back to the Revenue Department for implementation of public welfare schemes. The Government had taken up digging of HNSS Canal through a part of

Ac.32.57 cents of land proposed for Autonagar. Hence, vide letter dated 29.01.2010 the Tahsildar was requested to take possession of Ac.32.57 cents for using the same for Government schemes. But, the revenue authorities did not take back the said lands. The revenue officials have worked out actual extent of land available at Basinikonda village excluding the land covered under HNSS Canal, which is about Ac.22.45 cents, and encroachments and pending cases which is about Ac.3.77 cents and Ac.6.37 cents and hence suitable land was again searched and an extent of Ac.27.31 cents in Molakaladinne village was shown by the Tahsildar and the requisition was filed on 28.03.2012, but this land was covered with huge boulders and possession was not given to APIIC. It is specifically stated that even though the revenue officials were requested through letter dated 29.01.2010 to take back the land and to refund the amount deposited by APIIC, the revenue officials have not taken back the land of Ac.32.57 cents and that the said land is still in possession of APIIC and as no alternative land is available for establishment of Autonagar it was decided to evict the encroachments in Ac.32.57 cents of land.

The letter relied upon by the petitioner, which is filed along with WPMP No.22573 of 2012 is dated 12.03.2004 addressed by APIIC to the Chief Commissioner of Land Administration, Hyderabad. Basing on this letter the petitioner contends that as the land is no longer required by APIIC the petitioner's possession cannot be interfered with. The said letter deals with an extent of Ac.17.63 cents of patta land and Ac.8.00 of DKT land in various survey numbers and the said letter does not deal with the land in Survey No.708/3A which the petitioner is claiming. The contents of the said letter show that the draft notification and declaration were issued with regard to above mentioned patta lands and DKT lands in

various survey numbers, but the Autonagar Association failed to deposit the amount which has to be paid towards compensation and as such the Corporation has taken a decision to withdraw the proposal for land acquisition with regard to Ac.25.63 cents of land in various survey numbers i.e., Sy.Nos.711, 714, 716, 703, 718/2, 718/11, 717, 718/4A and 718/4B of Basinikonda village, which admittedly the petitioner is not claiming. As the Corporation has taken a decision to withdraw from the land acquisition and as the subject lands have to be de-notified by withdrawing from the notification vide the said letter certain documents were asked for by the Executive Director of APIIC from the Chief Commissioner of Land Administration which is an internal correspondence. As the said letter only deals with the private patta lands and DKT lands in Survey Nos. Sy.Nos.711, 714, 716, 703, 718/2, 718/11, 717, 718/4A and 718/4B of Basinikonda village, the petitioner is not at all concerned or connected with the said letter.

The certificate dated 06.12.1991 is filed by the petitioner which shows that the land in Survey No.708/3A is handed over to APIIC. Two other certificates filed by him are dated 15.10.1992 and 17.10.1997 which also show handing over possession of land in different survey numbers.

Another letter relied upon by the petitioner is the letter dated 18.02.2006 addressed by the MRO to APIIC directing them to handover possession of the lands, which includes land in Survey No.708/3A. Another letter dated 01.08.2007, relied upon by the petitioner, is an internal correspondence between the Revenue Divisional Officer and the Executive Director, APIIC, which directs the APIIC to handover possession of the Government lands to the Tahsildar, which includes Survey No.708/3A. In the said letter it is categorically mentioned that the Hon'ble

Chief minister has laid the foundation for HNSS project in the midst of APIIC lands and that some of the lands will come under the Canal. Another letter relied upon by the petitioner is the letter dated 26.11.2009 which is an internal correspondence from Zonal Manager to the Executive Director of APIIC which clearly states that the Government has taken up digging of HNSS Canal through part of the land which is proposed for Autonagar.

The letter dated 29.01.2010 is a letter addressed by the Zonal Manager APIIC to Tahsildar stating that they have decided to handover schedule property with a request to refund the amount which was paid by them. However, as seen from the second counter affidavit filed by the APIIC to WPMP No.22573 of 2012 on 16.09.2014, the revenue officials have not taken back the said extent of Ac.32.57 cents and the amounts paid by APIIC were also not refunded to them and the land is still in possession of APIIC and they decided to evict the encroachments in Ac.32.57 cents of land.

The petitioner mainly relied upon the letter dated 12.03.2004 which was filed along with WPMP No.22573 of 2012. The said letter does not at all deal with AWD lands in Sy.No.708/3A and the said letter only deals with patta lands of Ac.17.63 cents and Ac.8-00 of DKT lands in Survey Nos.711, 714, 716, 703, 718/2, 718/11, 717, 718/4A and 718/4B of Basinikonda village. The contents of the letter clearly show that it deals with patta land of Ac.17.63 cents and Ac.8-00 of DKT land in Survey Nos.718/4A and 718/4B, and not the subject lands in Survey No.708/3A.

As seen from the record, advance possession was given to APIIC in 1991 with regard to lands admeasuring Ac.32.57 cents which include the subject land in Survey No.708/3A, but the land acquisition proposals

which were sought to be withdrawn, was, with regard to different survey numbers admeasuring an extent of Ac.17.63 cents of patta land and Ac.8.00 of DKT land and the petitioner is not at all concerned with the said extent of Ac.17.63 cents of patta land and Ac.8.00 of DKT land. Hence, the petitioner is not concerned with the withdrawal of the land acquisition proceedings, since he is not concerned with the said lands.

Apart from that, as seen from the counter affidavits filed by both the Tahsildar and APIIC, an extent of Ac.22.45 cents is covered by HNSS Canal and about Ac.6.37 cents and Ac.3.77 cents is covered by encroachments/pending cases. Learned Government Pleader also placed on record the written instructions of the Tahsildar, Madanapalle, a copy of which was also served on the learned counsel for the petitioner, stating that the subject lands were inspected along with the Mandal Surveyor and the Village Revenue Officer on 07.08.2018 and they noticed that HNSS Canal is passing through the total extent of subject survey number.

Additional affidavit dated 13.08.2018 has been filed by the petitioner along with photos disputing the instructions of the Tahsildar, but the petitioner admitted that "Handrineeva Canal" is dug on an extent of Ac.1-00 and that he is left with Ac.3-50 cents. It is also stated that the District Collector addressed a letter dated 17.03.2016 to the Tahsildar to look into the matter. As seen from the letter dated 17.03.2016 of the Collector, representation was submitted by the petitioner on 03.12.2015 to exempt their lands from acquisition. Basing on that representation, the District Collector asked the Tahsildar to look into the matter. The said letter does not say that petitioner is the assignee of the subject land. He also relies upon a letter dated 04.12.2017 of the District Collector to the Tahsildar which is also on similar lines. Photographs were also filed along

with his affidavit which only show a particular land and there is no document whatsoever to relate the subject land to the petitioner.

Counter affidavit has been filed by the 1st respondent - Revenue Divisional Officer on 05.09.2018 to the additional affidavit filed by the petitioner, stating that much prior to the passing of the order in previous W.P.No.8227 of 1998, possession was handed over to APIIC in 1991, and that the land is Government land. It is also categorically stated by the Revenue Divisional Officer that he also inspected the land and that the total extent of Ac.4-69 cents is covered by HNSS Canal, which was dug in 2009-10.

Reply affidavit as well as additional affidavit are filed by the petitioner on 14.09.2018, reiterating the same and contending that issuance of impugned notice itself shows that he is in possession of the subject land. This contention also does not have legs to stand, because the impugned notice is not addressed to him. He seeks for appointment of a Commissioner in IA No.1 of 2018 to note down physical features as well as to take photographs. Physical features and photographs will not come to the aid of the petitioner, as the patta number which the petitioner relies does not belong to this land and as the subject land is AWD land and as the prayer in the writ petition itself shows that he was dispossessed. Hence, no orders need be passed in IA No.1 of 2018 and the same is liable to be dismissed.

In view of the facts and circumstances as discussed above, the Writ Petition is liable to be dismissed for the following reasons.

1. The lands in Survey No.708/3A, admeasuring Ac.4.69 cents are classified as AWD lands (Government lands) in the village accounts.

2. No DKT Patta was granted in respect of the subject land either to the petitioner or to his father at any point of time.
3. The File AM No.46/4/1401 which the petitioner claims to be his own, does not relate to the subject survey number and the said File number relates to the land in Survey No.551/1B, admeasuring Ac.2.81 cents of B.K. Palli, which was assigned in favour of Sidda Reddemma.
4. The impugned order is issued for an extent of Ac.2.25 cents in Sy.No.708/3A, but the relief is claimed in the writ petition for an extent of Ac.4.69 cents.
5. The impugned order is issued to one P. Dhanalakshmi, who is not the petitioner and, admittedly, petitioner is not in possession of the subject land as on the date of issuing the impugned order. As seen from the impugned order the said Dhanalakshmi did not submit any explanation to the show cause notice and did not avail the opportunity of personal hearing granted to her. Hence, eviction orders were passed.
6. The letters relied upon by the petitioner particularly letter dated 12.03.2004 pertain to the private patta lands admeasuring Ac.17.63 cents and Ac.8-00 of DKT lands in Sy.Nos.711, 714, 716, 703, 718/2, 718/11, 717, 718/4A and 718/4B of Basinikonda village. The land acquisition proceedings were initiated in so far as these patta lands are concerned and they are sought to be withdrawn vide those letters as money has not been paid by the Autonagar Welfare Association. So far as the subject land in Survey No.708/3A is concerned, as the said land is Government land, the same was not subjected to land

acquisition proceedings, but the District Collector asked the APIIC to handover back the said extent of Ac.32.57 cents to the revenue department for implementation of welfare schemes, but the Government has taken up digging of HNSS Canal through a part of Ac.32.57 cents of land which was proposed for Autonagar. As the said land was sought by the revenue department for implementation of Government schemes the Tahsildar was requested to take back the possession.

7. The revenue officials have worked out the actual extent of land available at Basinikonda village, excluding the land covered under HNSS Canal, which is about Ac.22.45 cents, and encroachments and pending cases which is about Ac.3.77 cents and Ac.6.37 cents and the remaining land is not sufficient hence suitable land was again searched and an extent of Ac.27.31 cents in Molakaladinne village, Madanapalle Mandal, Chittoor District was shown by the Tahsildar and the requisition was filed on 28.03.2012, but this land was covered with huge boulders and possession was not given to APIIC. As the amounts which were paid by APIIC were not refunded and the land was still in possession of APIIC, they decided to evict the encroachments in Ac.32.57 cents invoking the provisions of the Act.
8. The petitioner cannot rely upon the judgment in previous Writ Petition No.8227 of 1998, dated 27.03.1998, which was disposed of at the admission stage on the submission made by the learned counsel for the petitioner that DKT Patta was granted to the petitioner and that the land was not resumed, and the said order also categorically directs the respondents not

to interfere with the possession of the petitioner without recourse to law, provided the subject lands were not resumed in favour of the State before. In this case, no patta was granted to the petitioner and possession was already handed over to APIIC in 1991 i.e., much prior to the disposal of the said writ petition.

9. The 1st respondent – RDO filed a counter affidavit dated 05.09.2018 after inspecting the subject land stating that HNSS Canal was dug in the entire extent of Ac.4-09 cents in Survey No.708/3A, during 2009-10 and that no more land is available in the said survey number. Even according to the affidavit filed in support of the writ petition, the petitioner is not in possession of the subject land.

For all the reasons stated above, IA No.1 of 2018 and the Writ Petition are 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: 29th November 2018
Nsr

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI



Date: 29th November 2018

Nsr