

***THE HON'BLE SRI JUSTICE T.AMARNATH GOUD**

+ WRIT PETITION No.28442 OF 2007

% 02—05—2018

G.Linga Rao and Others

...Petitioners

vs.

\$ The Government of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and Others

... Respondents

!Counsel for the Appellant : Smt.N.Shoba

^Counsel for the Respondent : Government Pleader for Revenue (TS)

<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.28442 of 2007

Between:

G.Linga Rao and Others

....Petitioners

And

The Government of Andhra Pradesh, rep. by its Secretary,
Revenue Department, Secretariat, Hyderabad and Others

....Respondents

JUDGMENT PRONOUNCED ON: 02.05.2018

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.28442 OF 2007****ORDER:**

This writ petition is filed challenging the action of the respondents in not initiating action for implementing the judgment of Land Reform Appellate Tribunal, Karimnagar, dated 25.08.1989, in LRA.No.35/1988 setting aside the order of Land Reforms Tribunal, Karimnagar, dated 30.08.1985, in C.C.No.1497 & 1498/HZB/1975 and also in not considering the representation of the petitioners dated 20.04.2007.

2. It is the case of the petitioners that Gandra Rajaiah, Gandra Papaiah and Gandra Chandraiah are three brothers. Petitioner Nos.1 to 3 are sons of G.Rajaiah, petitioner Nos.4 to 8 are sons of G.Papaiah and petitioner No.9 is the wife of G.Linga Rao, S/o. G.Chandraiah. G.Chandraiah has 5 sons. Linga Rao is the first son, who expired. Petitioner Nos.10 12 are the sons of G.Chandraiah and petitioner No.13 is the wife of 5th son of G.Chandraiah, who expired. Gandra Rajaiah, Gandra Papaiah and Gandra Chandraiah purchased land admeasuring Ac.20-06 guntas in Sy.Nos.144, 145 and 146 of Vilasagar Village, Jammikunta Mandal, Karimnagar District under a sale agreement dated 26.06.1955 from one Smt.Sarrafa Rambai signed through R.Mrutyunjayam on behalf of Smt.Sarrafa Rambai as Muqtyar-aam-illaki. They have been in possession and enjoyment of the said lands since 1955 by raising crops.

3. While so, one S.Ramgopal Rao, without any manner of right, title or possession, submitted first declaration on 11.04.1975 showing the petitioners' lands as his surplus lands and later he was declared as excess holder and directed to surrender excess lands. Thus, instead of surrendering his lands, he surrendered the said lands to the Government towards excess under the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973. The Land Reforms Tribunal, Karimnagar (for short, Tribunal) accepted the surrender of said land by its order dated 30.08.1985 in C.C.No.1497 & 1498/HZB/75. Having come to know about the same, said three brothers filed Land Reforms Appeal No.35/1988 before the Land Reform Appellate Tribunal, Karimnagar (for short, Appellate Tribunal). The Appellate Tribunal by its order dated 19.12.1988 in I.A.No.70/1988 in LRA.No.35/1988 stayed the proceedings of the Tribunal dated 30.08.1985. Thereafter, the Appellate Tribunal allowed the appeal by its judgment dated 25.08.1989 setting aside the order of the Tribunal. Challenging the judgment of the Appellate Tribunal, S.Ramgopal Rao preferred CRP.No.3117/1989 before this Court and this Court dismissed the same on 24.04.1996, in pursuance of which, the order of the Appellate Tribunal became final.

4. During the pendency of appeal before the Appellate Tribunal, in spite of stay, the respondents have taken symbolic paper possession of surrender of subject lands and entered the same in the records and granted provisional pattas in favour of 28 persons,

but possession was not handed over to them. Having come to know about the same, the father of petitioner Nos.1 to 4 represented the matter before the then respondent Nos.2 to 4 and requested them to implement the judgment of the Appellate Tribunal dated 25.08.1989. The petitioners also submitted several representations, after dismissal of CRP.No.3117 of 1989 by this Court, to respondent Nos.2 to 4, but they did not take any action so far.

5. The respondents filed counter-affidavit stating that S.Ramgopal Rao (declarant) surrendered the subject lands as excess under the provisions of the Act; that though S.Ramgopal Rao did not mention the lands in his declaration, the Special Tahsildar has found the lands in the holding of S.Ramgopal Rao and therefore the Tribunal has declared him as surplus holder to an extent of 1.2545 standard holdings in excess; that the same was accepted by the Government and the Government taken over the possession of subject lands under a cover of panchanama on 01.04.1986; that thereafter the subject lands were assigned to landless poor on 08.08.1986 and possession was also delivered to the assignees in Sy.No.144 and 146; that as standing crop was existing in Sy.No.145, the land in Sy.No.145 was not handed over to the assignees and that as per the letter dated 19.01.2008 of the Tahsildar, Jammikunta, the assignees are in possession and enjoyment of the lands in Sy.Nos.144, 145 and 146.

6. Smt.N.Shoba, learned counsel for the petitioners, submitted that the respondents without verifying the records as to the ownership over the subject lands, accepted the declaration of S.Ramgopal Rao, who was not having any manner of right, title or possession, which resulted in passing the order by the Tribunal dated 30.08.1985. She further submitted that in the appeal, the Appellate Tribunal by its order dated 19.12.1988 initially stayed the proceedings of the Tribunal dated 30.08.1985 and thereafter, allowed the appeal by its judgment dated 25.08.1989 setting aside the order of the Tribunal. In spite of stay, the respondents have taken symbolic paper possession of surrender of subject lands and entered the same in the records and also granted provisional pattas to 28 persons, which is illegal. She further submitted that in pursuance of dismissal of CRP.No.3117/1989 by this Court, the order of the Appellate Tribunal became final and the respondents shall take steps to cancel the assignments made to others and to resume the subject lands in favour of the petitioners.

7. The learned Government Pleader submitted that the respondents followed due process of law in accepting the surrender made by S.Ramgopal Rao and also in assigning the lands in favour of landless poor persons and sought to dismiss the writ petition.

8. The Tribunal ought to have verified the records and ought to have rejected the declaration and refuse to accept the surrender of the lands by a third party declarant who is a stranger to the land and has no authority and title over the said lands. The Special

Deputy Tahsildar appreciated the factual position and placed the same on record. Despite his report, the lands were included in the account of declarant. The verification report dated 23.04.1985 clearly says that the lands in Sy.Nos.144, 145 and 146 are in possession of the appellant (Gandra family). While deciding the appeal, the Tribunal has categorically observed that the declarant Sri S.Ramgopal Rao has not included the said lands in the declaration initially submitted; that the Tribunal addressed the Tahsildar, Huzurabad to submit Inspection & Verification report and in his verification report (dated 23-04-1985), the Tahsildar, Huzurabad clearly mentioned that the lands bearing survey Nos.144, 145 & 146 were in possession & enjoyment of the Appellants and Sri S.Ramgopal Rao was only a nominal pattedar; that the tribunal failed to issue notice of the proceedings to the Appellants as required under Rules 1974 of A.P.L.R (Ceiling on Agricultural Holdings); that the appellants (writ petitioners) had no knowledge of the proceedings till 08-12-1988 and approval of the surrender of these lands by the Land Reforms Tribunal, Karimnagar; that in his report dated 23-04-1985, the Tahsildar, Huzurabad mentioned that survey Nos.144, 145 & 146 were standing nominally in the name of Declarant as Pattedar and that these lands were in physical possession and occupation of the petitioners; that the Tahsildar further requested the Addl. R.D.O., Karimnagar to ask the Declarant to surrender any other lands which are free from encumbrances; that the Declarant had also not included these lands when he filed his first declaration, but after

the verification & inspection report was filed by the Special Deputy Tahsildar, these lands were included in the holding of the Declarant and that the Special Deputy Tahsildar also mentioned in his report that the said lands were in possession & enjoyment of the petitioners therein.

9. Once there was a stay granted by the Appellate Tribunal on 19.12.1988 and later allowed the appeal on 25.08.1989, the respondents in no manner have a lawful right or duty to alienate the property which is subject matter of the appeal. The respondent officials have committed grave irregularity in creating third party interest. The action of the respondents is atrocious. The Mandal Revenue Officer has taken over the possession without even making a physical verification of lands and without visiting the subject lands.

10. It is seen from the record that in spite of stay orders by the Appellate Tribunal, the respondents have taken symbolic paper possession of surrender of subject lands and entered the same in the records and also granted provisional pattas to 28 persons. A perusal of the order of the Appellate Tribunal shows that it dealt with the matter in detail and set aside the order of the Tribunal. After dismissal of CRP.No.3117/1989 on 24.07.1996, the respondents are obligated to implement the order of the Appellate Tribunal dated 25.08.1989. Though the petitioners filed several representations, the respondents did not take any steps to implement the order of the Appellate Tribunal and the reasons are

unexplained and such action of the respondents is highly illegal and contrary to law. The Government Officials are not expected to act in such a casual manner and without application of mind when they are dealing with the property of a citizen, which is protected under the Constitution of India. The careless action of the Special Tahsildar has deprived the lawful right of the petitioners infringing Article 300-A of the Constitution of India.

11. Hence, the writ petition is disposed of directing the respondents to implement the order of Land Reform Appellate Tribunal, Karimnagar, dated 25.08.1989, in LRA.No.35/1988, within a period of three months from the date of receipt of a copy of this order. No costs. As a sequel, the Miscellaneous Petitions pending if any shall stand closed.

Date: 02.05.2018

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

T.AMARNATH GOUD, J