THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION NO.18765 OF 2006

ORDER:

This writ petition is filed challenging the proceedings in Rc.No.E1-1427-2002 dated 24.07.2006 of the Joint Collector & Additional District Magistrate, Prakasam District at Ongole, fourth respondent herein, and also seeking a direction to the respondents to implement G.O.Ms.No.1073, Revenue (Asn.VI) Department, dated 18.12.2004, by accepting the sale consideration from the petitioner.

2. It is the case of the petitioner that his father late Bhuma Venkata Subba Rao purchased an extent of Ac.0-64 cents in R.S.Nos.273/3 & 273/4 (old S.Nos.273/2 & 273/3) of Podili Village and Mandal, Prakasam District from the original pattedars viz., Shaik Bihari Saheb and others under registered sale deeds bearing document Nos.419 and 420 dated 02.06.1969. After the Estates Abolition Act (for short, the Act) came into force, as the original pattedars could apply for patta, the father of the petitioner submitted an application for grant of ryotwari patta under Section 11(A) of the Act and the Settlement Officer granted patta in favour of petitioner's father vide proceedings dated 19.04.1982. Questioning the proceedings dated 19.04.1982, the then Tahsildar, Podili, preferred a revision to the Director of Settlements and the said revision was disposed of by order dated 07.01.1984 observing that the father of the petitioner was not entitled for grant of patta. Challenging the same, the father of the petitioner preferred a

revision to the Commissioner of Land Revenue, who disposed of the same by order dated 01.06.1988 setting aside the order dated 07.01.1984 and remanded the matter to the Director of Settlements. Thereafter, the matter went many rounds of litigation and finally, the second respondent by proceedings dated 20.12.2003, recommended the proposal of alienation of property in favour of petitioner's father in respect of Ac.0-14 cents @ Rs.1,000/- per square yard. The said proposal was approved and the first respondent vide G.O.Ms.No.1073 dated 18.12.2004 issued necessary orders directing the alienation of the said land in favour of petitioner's father @ Rs.1,570/-. As there was no clarity whether Rs.1,570/- is for entire land or for a square yard, on request of the third respondent, the first respondent clarified that the rate is for a square yard. Thereafter, the third respondent, by proceedings dated 26.02.2005, directed the sixth respondent to incorporate the necessary changes in the village and mandal accounts. Consequent to the same, the sixth respondent issued proceedings dated 04.03.2005 directing the father of the petitioner to pay the market value within a week for incorporation of necessary changes in the village and mandal accounts. While so, the father of the petitioner died on 30.04.205. Thereafter, the petitioner submitted representations to the respondents for according permission to pay the amount, but they went in vain. On 24.07.2006, the fourth respondent passed orders withdrawing the proceedings dated 26.02.2005 of the third respondent without any notice to the petitioner stating that the father of the petitioner failed to pay the market value within six months. Challenging the same, the present writ petition is filed.

3. Sri M.Ravindranadh Reddy, learned counsel for the petitioner submitted that though there was no time limit prescribed in G.O.Ms.No.1073 dated 18.12.2004, the fourth respondent passed impugned order withdrawing the proceedings dated 26.02.2005 of the third respondent without any notice to the petitioner. He further submitted that the respondents are obligated to implement G.O.Ms.No.1073 dated 18.12.2004 by accepting the sale consideration from the petitioner and that non-implementation of G.O.Ms.No.1073 dated 18.12.2004 is illegal and arbitrary.

4. Learned Government Pleader for Revenue (Andhra Pradesh) submitted that as the father of the petitioner failed to pay the amount within the prescribed time, the fourth respondent passed the impugned order. He further submitted that the first respondent issued a circular in Memo No.63790/Asn.I(1)/2002-1, dated 21.11.2002, wherein it is stated that the alienee fails to pay the market value fixed by the Government and possession is not taken within six months from the date of issue of the orders by the Government, the allotment stands cancelled and he produced a copy of the same. However, the learned Government Pleader admitted that the Memo dated 21.11.2002 has not been communicated to the petitioner.

5. It is pertinent to extract G.O.Ms.No.1073 dated 18.12.2004 here which reads as follows:

“ REVENUE (ASN.VI) DEPARTMENT

G.O.Ms.No.1073 Dated 18-12-2004.
Read the following:-

1. From the Collector, Prakasam District, Lr.No.E1/1427/2002, dt.28-10-2003.
2. From the Spl. CS & CCLS, Hyderabad, Lr.No.B1/1405/2003, dt.20-12-2003.

ORDER:

In the circumstances reported by the Collector, Prakasam District and as recommended by the Special Chief Secretary & Chief Commissioner of Land Administration, Hyderabad in their letters 1st and 2nd read above, Government after careful examination of the matter hereby direct that the alienation of Government land in Sy.Nos.273/3 & 4 measuring Ac.0.14 cents to Sri B.V. Subba Rao, Podili Village and Mandal and Sy.No.273/5 an extent of Ac.0.11 cents to A.P.N.G.O's Association for construction of their Association building, Podili Village and Mandal of Prakasadm District on payment of market value @ Rs.1,570/-.

2. The Collector, Prakasam District is directed to take necessary action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

V.P.JAUHARI
PRINCIPAL SECRETARY TO GOVERNMENT”

6. A perusal of G.O.Ms.No.1073 dated 18.12.2004, it is clear that no time limit is prescribed therein for payment of market fee. It is also admitted fact that circular in Memo No.63790/Asn.I(1)/2002-1, dated 21.11.2002 is not marked to the petitioner and that there is no other communication to the petitioner with regard this circular.

7. In the circumstances, this writ petition is allowed setting aside the proceedings in Rc.No.E1-1427-2002 dated 24.07.2006 of the fourth respondent. The respondents are directed to implement G.O.Ms.No.1073, Revenue (Asn.VI) Department, dated 18.12.2004, by accepting the sale consideration from the petitioner, 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.

T.AMARNATH GOUD, J

Date: 08.06.2018
TJMR