

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

+ WRIT PETITION No.19133 OF 2007

% 13—07—2018

Sri Ch.Kiron, rep. by his GPA Holder and
Authorised Signatory V.Ratna Kumar

...Petitioner

vs.

\$ The Mandal Revenue Officer, Hayathnagar
Mandal, Ranga Reddy District and 2 Others

... Respondents

!Counsel for the Appellant : Sri M.V. Durga Prasad

^Counsel for the Respondent : Government Pleader for Revenue (TS)
Government Pleader for Assignment (TS)
Sri Guru Prasad.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.19133 of 2007

Between:

Sri Ch.Kiron, rep. by his GPA Holder and
Authorised Signatory V.Ratna Kumar

....Petitioner

And

The Mandal Revenue Officer, Hayathnagar
Mandal, Ranga Reddy District and 2 Others

....Respondents

JUDGMENT PRONOUNCED ON: 13.07.2018

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.19133 OF 2007

ORDER:

This writ petition is filed challenging the proceeding No.C/122/2007, dated 05.09.2007, of the first respondent and the subsequent Form X which is a certificate for taking possession of the lands of the petitioner admeasuring Ac.4-25 guntas in Sy.No.301 of Anajpur Village, Hayath Nagar Mandal, Ranga Reddy District.

2. It is the case of the petitioner that he purchased an extent of land Ac.3-34 guntas and Ac.0-31 guntas, totally admeasuring Ac.4-25 guntas in Sy.No.301 of Anajpur Village, Hayath Nagar Mandal, Ranga Reddy District, under two separate sale deeds dated 26.10.1993 vide document No.12182/1993 and dated 26.11.1993 vide document No.13524/1993 respectively, from the vendors Rachapaka Maraiah and others. The fathers of the vendors obtained their title and possession over the subject land under a sale deed dated 29.12.1966 vide document No.3609/1966 from the original pattedar and possessor Kaisar Mohammed Ali, after obtaining permission from the Tahsildar on 20.10.1966. The vendors of the petitioner later found that Kaisar Mohammed Ali wrongly shown his extent of land in his declaration in C.C.No.2162/E/75, which was filed in the year 1966, and the Land Reforms Tribunal (for short, Tribunal) passed order dated 29.09.1976 declaring him as the surplus land holder and they filed an appeal before the Land Reforms

Appellate Tribunal (for short, Appellate Tribunal). The Appellate Tribunal allowed the appeal in L.R.A.No.3186/1977 by order dated 14.09.1977 and remanded the matter back to the Tribunal for deciding afresh. The Tribunal, on remand, passed an order dated 18.08.1978, excluding the subject land. Thereafter, the petitioner, to construct buildings in the subject land, filed an application before the District Collector, Ranga Reddy District for conversion of the subject lands under Section 61 of the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 Fasli. The District Collector, after the recommendations of the respondents, vide his letter No.D1/2497/2001, dated 02.05.2001, passed an order for conversion of the subject land from agricultural purpose to non-agricultural purpose.

3. While so, the first respondent issued a show cause notice dated 16.01.2007 under the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short, Act of 1977) stating that the subject land was taken possession by the Government pursuant to the order in C.C.No.2162/E/75 vide Form X and that the petitioner has purchased the subject land from the assignees, to whom the subject land was assigned. The petitioner gave a reply dated 02.02.2007 followed by another letter dated 19.02.2007 requesting the respondents to furnish copies of the documents referred to in the notice dated 16.01.2007 under the Right to Information Act. The first respondent, without furnishing the documents,

has issued another show cause notice dated 07.03.2007, for which, the petitioner submitted a reply dated 12.03.2007. Without furnishing the documents and without considering the reply of the petitioner, the first respondent passed the impugned order on 05.09.2007.

4. The respondents filed a counter-affidavit admitting the facts upto passing of order dated 18.08.1978, by the Tribunal, excluding the subject land from the holding of the declarant viz., Kaisar Mohammed Ali. It is further stated that after re-determination of the holding of the declarant, the respondents gave a notice dated 12.04.1979 to the declarant under Rule 7(1) of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Rules, 1973 (for short, Rules of 1973) to surrender the excess land held by him. The declarant had proposed to surrender an extent of land Ac.4-63 cents in Sy.No.301 and Acs.0-99 cents in Sy.No.305. Thereafter, a general notice, about the said surrender, under Rule 7(4) of the Rules of 1973 was issued by the Tribunal calling for objections and the said notice was published in Form-VII. As no objections were received, the Tribunal passed an order dated 12.04.1979 to the effect that the proposed surrender of the said lands by the declarant under Section 10(4) of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (for short, Act of 1973) was in accordance with the provisions of the Act of 1973 and approved the said surrender. Thereafter, the said lands were

taken possession by the Government and they were assigned in favour of landless poor persons. The respondents further stated that the subject land which is part of Ac.4-29 in Sy.No.301 stood vested in the Government, free from all encumbrances, with effect from 12.04.1979, the date on which the surrender of the said lands was approved. Thereafter, the petitioner purchased the subject land from the assignees under the registered sale deeds dated 26.10.1993 and 26.11.1993 and hence they cannot have the effect of transferring in favour of the petitioner, as the transfer and acquisition of the assigned lands were prohibited under Section 3(1) of the Act of 1977. They further stated that in those circumstances, the first respondent passed the impugned order and prayed to dismiss the writ petition.

5. It is seen from the record that to the show cause notice dated 14.01.2007 issued by the first respondent, the petitioner made an application dated 23.01.2007, letter dated 02.02.2007 and also a reminder on 20.02.2007 under the Right to Information Act, requesting him to furnish certain documents which are relevant for submitting explanation with regard to declarations relied upon by the authorities in respect of the subject land, but his efforts went in vain, as the second respondent did not furnish any document. The order passed by the Appellate Tribunal in L.R.A.No.3186/1977 dated 14.09.1977 has become final and, in view of the same, the impugned order dated 05.09.2007 of the first respondent

is without jurisdiction and hence the provisions under the Act of 1977 cannot be invoked.

6. It is necessary to refer to the order of the Tribunal dated 18.08.1978, which reads as under:

“O R D E R:-

The objection petitioners have requested for deletion of lands covered by Registered sale deeds and 38-E. They have filed (3) Regd.sale deeds for S.Nos.301 measuring Ac.4-25 gt. and 302 measuring Ac.13-26 guntas. On verification of documents it is revealed that the declarant has sold away these lands to the protected Tenants M/s.Rachapaka Shivaiah, Rachapaka Eraiah, Rachapaka Rama Swamy, Rachapaka Muthaiah R/o. Anajipur Village of Hyderabad East Taluk and the purchasers are in possession and the lands have been computed in their holdings vide C.C.Nos.410/E/75 and 414/E/75.

In view of the above facts and records verified, the said land is ordered to be deleted while computing the holding of this declarant.

In view of the above findings the total holdings the declarant is re-determined as below:- 1st

		S.H.
1)	Total holding of the declarant	2.2893
2.	<u>Less deduction:</u>	
	S.Nos.301, 302,	
	Ext. 18-27 cents	1.0156
	Eq.to ex. 1.0156 SH	
3.	Balance holdings remains:	1.2737”

7. Admittedly, the subject land was purchased by Rachapaka Sivaiah and Rachapaka Eraiah from their vendors Mr.Kaisar Mohammed Ali under a registered sale deed dated 29.12.1966 vide document No.3609/1966, prior to the date of Act of 1977 came into force. The Tribunal, by its order dated 18.08.1979, has deleted the subject land from the computation of the holding of the declarant Mr.Kaisar Mohammed Ali. Thereafter, the legal heirs of R.Sivaiah and R.Eeraiah have sold the subject land under a registered sale

deed dated 26.10.1993 vide document No.12182/1993 in favour of the petitioner herein. The District Collector, Ranga Reddy District, in his proceedings dated 02.05.2001, has accorded permission for conversion of the subject land from agricultural purpose to non-agricultural purpose.

8. In view of the above, the subject land cannot be said that it is an assigned land. Hence, the impugned order dated 05.09.2007 is the one which is passed hastily, without appreciating the records and legal position and it is in gross violation of principles of natural justice and is liable to be set aside.

9. Accordingly, the writ petition is allowed setting aside the proceeding No.C/122/2007, dated 05.09.2007, of the first respondent and the subsequent Form X issued for taking possession of the lands of the petitioner admeasuring Ac.4-25 guntas in Sy.No.301 of Anajpur Village, Hayath Nagar Mandal, Ranga Reddy District. No costs. Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 20.07.2018
TJMR