

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.11005 OF 2005

ORDER:

The Mandal Revenue Officer, Tirupathi Rural, Chittoor District, filed this Writ Petition under Article 226 of the Constitution of India against the sole respondent Smt.K.Chimini Bai, grantee of Ryotwari Settlement Patta to the land in question, seeking to issue a Writ of *Certiorari* to call for the records relating to proceedings No.P3/1900/2000 dated 19.10.2004 of the Commissioner of Appeals and also the order passed in RP No.19/1998 (H1) dated 09.08.2000 of Director of Settlements, Andhra Pradesh, Hyderabad, and quash them by restoring the orders of Joint Collector-cum-Settlement Officer, Chittoor, dated 06.03.1998 in D.Dis.No.21197/95.

Brief facts of the case are that the land to an extent of Acs.11.00 cents situated in survey No.53 of Gollapally (V), Tirupathi (Rural) Mandal was an Inam Estate notified and taken over by the Government on 05.07.1950 under the provisions of The Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 (for short 'Act, 1948'). Sri Archakam Venkatapathi Dikshithulu was the Inamdar of the Estate. The Inamdar inducted one Nellore Peddapa Reddy in the year 1942. He also granted Muchilika to Sri Nellore Peddapa Reddy in respect of the lands. He paid land revenue to the Inamdar and also paid cist to the Government for the years 1364 Fasli, 1367 Fasli to 1320 Fasli. After demise of said Nellore Peddapa Reddy, his sons Muni Venkata Krishna Reddy and his brothers succeeded to the suit land and they paid cist to the Government and land revenue to the

land holder. The respondent purchased the land admeasuring Acs.3.00 cents from them through registered sale document No.86/1986 dated 24.01.1986 and she also purchased the land admeasuring Acs.3.80 cents under registered sale document No.791/1986 dated 18.06.1986 from Smt.P.Pankaja D/o.Keshavulu Naidu who purchased the land from Muni Venkata Krishna Reddy and his brothers through registered sale document No.69/1986 dated 23.01.1986. Thus, the respondent became the absolute owner of the land admeasuring Acs.6.82 cents situated in survey No.53 of Gollapally (V), Tirupathi (Rural) Mandal, which correlates to the paimashi Nos.11 and 12 of the pre-abolition period and certified copy of the Muchilika dated 10.06.1942. After purchase, she developed the land by planting mango garden and other green manure and fruit bearing trees, which are now aged about 32 years. She also dug two borewells and obtained electricity connections and cultivating the same. Later she came to know that the land purchased by her is situated in Inam Estate and her vendor had not applied for ryotwari patta. Thus, on advice, she filed an application under Section 11 (a) of the Act, 1948 before the Settlement Officer, Nellore, for grant of ryotwari patta to her in respect of the subject land, along with required documents and also delay condone petition under Section 5 of the Limitation Act and as per G.O.Ms.No.551 (Revenue) J.A. Department dated 19.05.1986. Subsequently, the said application was transferred to Joint Collector, Chittoor, who was designated as Settlement Officer under the Act. The Joint Collector-cum-Settlement Officer rejected the application of the petitioner on 06.03.1998 stating that no reasons were shown to condone the

delay in filing application for grant of ryotwari patta and also holding that though documents under Exs.A.1 to A.36 were marked and evidence of PWs 1 to 4 was available, in the absence of crucial document Muchilika, no *prima facie* case was made out for the respondent for further enquiry.

Against the order of the Joint Collector, the respondent filed a revision petition before the Special Commissioner and the Director of Settlements, Andhra Pradesh, Hyderabad, under Section 5 (2) of the Act. The Director of Settlements, after conducting elaborate enquiry and after affording due opportunity to the petitioner herein, allowed the revision petition filed by the respondent herein vide order dated 09.08.2000 and granted ryotwari patta in her favour by setting aside the order of the Joint Collector holding that from all the documentary evidence putforth by the respondent herein, it is established that the respondent filed claim petition before the Settlement Officer, Nellore, on which date the Settlement Officer had power to entertain the claim petition of the ryots under Section 11 (a) of the Act, 1948 as per G.O.Ms.No.551 dated 19.05.1986 and thereby rejected the finding of the Joint Collector that the application is time barred. He further held that the land is ryoti and the land has been in continuous possession and enjoyment of the revision petitioner i.e. the respondent herein and her predecessors in title long prior to 01.07.1945 and thereby set aside the order of the Settlement Officer dated 06.03.1998. Aggrieved by the same, the petitioner herein filed further revision under Section 7 (d) of the Act, 1948 before the Commissioner of Appeals, Andhra Pradesh, Hyderabad, and the same was dismissed on 19.10.2004 by negating all the

revision grounds and holding that the writ petitioner had not filed sufficient documentary evidence to contest the claim of the respondent herein, except the copies of post abolition records, as the documents filed by the respondent belong to post abolition period, and no reason to interfere with the order of the Special Commissioner and Director of Settlements, Hyderabad. Against which, the present Writ Petition came to be filed before this Court by the Mandal Revenue Officer, Tirupathi Rural.

Heard both sides and perused the material on record.

The learned Government Pleader for Revenue (Andhra Pradesh) would contend that Gollapalli (V) of Tirupati (Rural) Mandal was an Inam Estate and the same was taken over by the Government on 05.07.1950 under the provisions of Act, 1948. The respondent filed a claim petition under Section 11 (a) of the Act, 1948 before the Settlement Officer, Nellore, for grant of ryotwari patta in respect of land measuring Acs.6.82 cents in survey No.53 of Gollapally (V). The Joint Collector-cum-Settlement Officer, Chittoor, rejected the claim petition on 06.03.1998 holding that the claim is time barred and no specific reasons were assigned for condonation of delay. In revision filed by the respondent herein, the Director of Settlements, allowed the revision and granted patta instead of remitting the matter to the Settlement Officer without recording specific finding about delay. The Director of Settlements exceeded his jurisdiction in granting ryotwari patta to the respondent. The said order was challenged before the Commissioner of Appeals by the Mandal Revenue Officer and the same was also dismissed on 19.10.2004 confirming the order of the Director of Settlements on erroneous appreciation of facts and

law. Thus, prayed to allow the writ petition by setting aside the impugned order.

Per contra, Sri Jaya Surya, learned counsel for the respondent, would contend that the land is ryoti land. The respondent was rightly granted ryotwari patta by the authorities considering the evidence on record by elaborate reasoned order. The Director of Settlements, condoned the delay by rejecting the finding of the Joint Collector as per G.O.Ms.No.551 dated 19.05.1986. In support of his contentions, he placed reliance on ***Gandham Vajramma vs. Commissioner of Survey, Settlements and Land Records, Hyderabad***¹ wherein it is held that the Settlement Officer has got power to condone the delay and grant ryotwari patta under the provisions of Act, 1948. He further contended that the land is ryoti as per the pre-abolition revenue records. As per Section 3 (16) of Act, 1948, the grazing lands are not included in the communal lands. As per Section 3 (16) of the Act, 1948 all the lands are ryoti lands but does not include communal lands, but grazing lands are not included in communal lands as held by the Madras High Court in ***Sri Athmanantha Swamy Devasthanam vs. K.Gopalaswami Ayyangar***² and this Court held that pastrage land is included in agricultural lands as reported in ***Lingareddy Ramakrishna Reddy vs. Director of Settlements***³ as confirmed by the Division Bench of this Court in ***Director of Settlements, Hyderabad vs. Lingareddy Ramakrishna Reddy***⁴. He would further contend that the Mandal Revenue Officer has no *locus standi* to file the writ petition.

¹ 2005 (5) ALT 85

² AIR 1965 SC 338

³ 1997 (4) ALT 409

⁴ 2008 (6) ALT 164 (D.B.)

In this context reliance is placed on ***J.Ramesh vs. Chief Commissioner of Land Acquisition, Hyderabad***⁵. Hence, the Writ Petition is liable to be dismissed.

Having perused the material on record, in the facts and circumstances of the case and in considered view of this Court, the Special Commissioner and Director of Settlements, Andhra Pradesh, Hyderabad, based on the pre-abolition records filed along with application under Section 11 (a) of Act, 1948, by the respondent herein held that the land admeasuring Acs.6.82 cents situated in survey No.53 of Gollapally (V) co-relates to paimaishi Nos.11 and 12 of the pre-abolition period and based on the certified copy of Muchilika dated 10.06.1942 held that the land is Inam land. Inamdar of the Estate namely Sri Archakam Venkatapathi Dikshithulu granted Muchilika to Sri Nellore Peddapa Reddy S/o.Rama Swami and on perusal of cist receipts for the years 1953 Fasli,, 1354 Fasli, 1355 Fasli and 1366 Fasli it is clearly established that Nellore Peddapa Reddy paid cist to the land holder during pre-abolition period. When the dispute arose between said Nellore Peddapa Reddy and Sri K.Gnana Sundar Pillai, the Pillai filed suit before the District Munisiff Court, Tirupati, in O.S.No.139/1960. After hearing, the District Munisiff dismissed the suit on 06.07.1960 holding that Sri Nellore Peddapa Reddy was the pattedar of the suit land and he was in possession of the suit land from 1942 onwards. A perusal of the land revenue receipts for 1368 Fasli to 1370 Fasli, 1367 Fasli, 1375 Fasli to 1379 Fasli would show that after demise of Nellore Peddapa Reddy his sons Muni Krishna Reddy, Ramaswamy Reddy, Jagannadham

⁵ 2018 (1) ALD 646

and Rama Murthy succeeded the said land. They sold the land to the respondent herein. Further, a perusal of the adangal extract for the year 1369 Fasli to 1371 Fasli clearly shows that the respondent and her predecessor cultivated the land by raising dry crops like Horsegram etc. and thus it is evident that the land is ryoti in nature. It is further held that the finding of the Joint Collector that the claim petition is time barred is incorrect as the record reveals that the claim petition was filed before the Settlement Officer on which date the Settlement Officer had power to entertain the claim petitions of the ryots under Section 11 (a) of Act, 1948 as per G.O.Ms.No.551 dated 19.05.1986. Thereafter, a further revision under Section 7 (d) of Act, 1948 was filed before the Commissioner of Appeals, who dismissed the revision confirming the order of the Special Commissioner and Director of Settlements, stating that the petitioner herein filed documents pertaining to post abolition period and that there is no reason to interfere with the order of the Director of Settlements. In the reasoned order passed by the Special Commissioner and Director of Settlements dated 19.08.2000 and the order dated 19.10.2004 passed by the Commissioner of Appeals, I find no error of fact or law, which warrant this Court to interfere and set aside the same.

That apart, in **J.Ramesh (5 supra)**, it has been held that the writ petition filed by the Mandal Revenue Officer challenging the orders of Commissioner of Appeals by raising various contentions touching the merits of the case, is not maintainable in view of the law declared by the Supreme Court in **Orxy Fisheries Private Limited vs. Union of India**⁶ holding that it is the State, if any

⁶ 2010 (6) SCC 427

rights are claimed by it, who can pursue and contest claim before statutory authorities as well as before High Court, the officials such as Mandal Revenue Officer cannot consider himself to be aggrieved and challenge the orders passed by statutory authorities. Quasi judicial authorities under the provisions of the Act are not aggrieved parties and they have no *locus standi* to file writ petitions. In that view of the matter, the writ petitioner had no *locus standi* to file the present writ petition. Further, the Director of Settlements and Commissioner of Appeals are not made as party respondents to this writ petition.

For the reasons stated above, the Writ Petition is dismissed.

Miscellaneous petitions pending in this petition, if any, shall stand closed. There shall be no order as to costs.

31st January, 2018
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(M.GANGA RAO, J)

