

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Writ Petition No.16727 of 2009

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioners requesting to issue a writ of Mandamus declaring the action of the respondents in not paying *ex gratia* to the petitioners in respect of their respective lands in Siddam Agraharam village of Varadaiahpalem Mandal of Chittoor District as illegal, arbitrary and violative of Articles 14 & 300-A of the Constitution of India and consequently direct the 3rd respondent – Special Deputy Collector, Tirupathi, Chittoor District, to pay *ex gratia* to the petitioners in respect of their respective lands.

2. I have heard the submissions of Sri V. Vinod K. Reddy, learned counsel, appearing for the petitioners, and of the learned Government Pleader for Land Acquisition (AP) appearing for the respondents 1 to 4. The impleaded non official respondents 5 to 62 have not entered appearance. I have perused the material record.

3. The case of the petitioners is this: -

The petitioners are landless poor persons belonging to Scheduled Caste community. The Government of Andhra Pradesh assigned the following lands to the petitioners under DKT pattas respectively issued to them.

Petitioner Name	Sy. No.	Extent Ac.	D.K.T.Patta No. & Dated	Village
Chandragiri Bamma	22/2D/1	1-00	147/4/1406 Dt.25-4-97	Siddam Agraharam
R.Mani	3/1F1	1-00	136/4/1406 Dt.25-4-97	Siddam Agraharam
K.Kataiah	3/1G1	1-00	138/4/1406 Dt.25-4-97	Siddam Agraharam
N.Bhaskar	3/1H2	1-00	141/4/1406 Dt.25-4-97	Siddam Agraharam
R.Bhaskar	22/2B2	1-00	146/4/1406 Dt.25-4-97	Siddam Agraharam
K.Venkataiah	3/1H1	1-00	140/4/1406 Dt.25-4-97	Siddam Agraharam
R.Chengamma	3/1B2	1-00	151/4/1406 Dt.25-4-97	Siddam Agraharam
P.Polamma	3/1C1	1-00	158/4/1406 Dt.25-4-97	Siddam Agraharam
R.Venkatamma	22/2B/3	1-00	133/4/1406 Dt.25-4-97	Siddam Agraharam
R.Amasaiah	3/1F2	1-00	137/4/1406 Dt.25-4-97	Siddam Agraharam
B.Chengaiiah	22/2C2	1-00	132/4/1406 Dt.25-4-97	Siddam Agraharam
P.Subrahmanya m	3/1J2	1-00	145/4/1406 Dt.25-4-97	Siddam Agraharam
R.Venkatesulu S/o Chengaiah (died) R.Nelamma W/o Venkatesulu	3/1B2	1-00	156/4/1406 Dt.25-4-97	Siddam Agraharam
R.Chellaiah S/o Aragaiah (died) R.Sumathi W/o Subrahmanyam	22/20/3	1-00	132/4/1406 Dt.25-4-97	Siddam Agraharam

They are in peaceful possession and enjoyment of their respective lands without any interruption from any quarter. They are eking out their livelihoods by raising crops in their respective lands. In the year 2006, the Government of Andhra Pradesh declared the subject village as a Special Economic Zone [SEZ] for the purpose of establishing industrial park. For the said purpose, the Government acquired the lands of the petitioners in the year 2008. The lands

of other villagers in the same village were also acquired and *ex gratia* amounts were paid to such villagers isolating the petitioners. The 3rd respondent personally came for inspection of the lands of the petitioners. He noticed that the petitioners are the original assignees and are in possession of their respective assigned lands. He had obtained the signatures of the petitioners in his field inspection notes, on 31.07.2008. However, no *ex gratia* amount was paid, as per terms of G.O.Ms.No.1307, dated 12.03.1993, to the petitioners in respect of their lands, which are acquired. The petitioners reliably learnt and understood that the respondents 3 & 4 are in collusion and are trying to manipulate the revenue record by incorporating the names of 3rd parties for extraneous considerations to deprive the payment of *ex gratia* amounts to the petitioners in respect of their respective assigned lands. Having acquired the lands of the petitioners, it is incumbent upon the respondents to act in a just and fair manner and they cannot deprive the petitioners of the *ex gratia* amounts, which are due to them. The petitioners have not violated the conditions of their respective DKT pattas. The petitioners submitted a written representation, dated 27.07.2009, for payment of *ex gratia* but no action has been taken. Hence, the writ petition is filed.

4. The case of the respondents as stated in the counter affidavit filed by the 4th respondent - Tahasildar, in brief, is this:

As per 10(1) account of the village, the writ petition subject lands were granted on DKT pattas in favour of the writ petitioners by the then MRO as detailed below.

Sy.No.	Extent	Classification	DKT No. and Date	Name of the Pattadar (as per Village Account No. 10(1))
22/2D1	1.00	Dry	147/4/1406 25.4.97	232.Chandragiri Balamma w/o Balalah
3/1F1	1.00	Dry	136/4/1406 25.4.97	222. Reddi Mani
3/1G1	1.00	Dry	138/4/1406 25.4.97	224. K.Kattalah
3/1H2	1.00	Dry	141/4/1406 25.4.97	227. Natham Bhaskar
22/2B2	1.00	Dry	146/4/1406 25.4.97	233. Reddi Bhaskar
3/1H1	1.00	Dry	140/4/1406 25.4.97	226.Reddi Chellamma (other than writ petitioner)
3/1B2	1.00	Dry	157/4/1406 25.4.97	243.Reddi Chengamma
3/1C1	1.00	Dry	158/4/1406 25.4.97	244. P.Polamma
22/2B3	1.00	Dry	130/4/1406 25.4.97	216. B.Dhanamma (other than writ petitioner)
3/1F2	1.00	Dry	137/4/1406 25.4.97	223. Reddi Amasalah
22/2C2	1.00	Dry	131/4/1406 25.4.97	217. B.Chengalah
3/1J2	1.00	Dry	145/4/1406 25.4.97	231. Picheri Subbaiah
3/1B1	1.00	Dry	156/4/1406 25.4.97	242. Reddi Venkatesu
22/20/3				No such subdivision existing in 10(1)

The writ petitioners 6,9 & 14 contended that DKT pattas were granted to them for the lands mentioned in the writ petition. However, the said contention is not correct. DKT pattas were granted to individuals other than the writ petitioners as noted in the table above. Sy.No.22/20/3 is not in existence in the village accounts. Both the assignees of lands in S.No.3/1H1 and 22/2B3 have filed individual writ petitions in WP.Nos.26560 & 29144 of 2009 before this Court against the Government. The said writ petitions are pending. Other writ petitioners are contending that their lands are in their peaceful possession and enjoyment. The said contentions are not correct. During the course of field inspection, the said lands were found to be in possession and enjoyment of third parties as noted below.

Sy. No.	Extent	Name of the Pattadar	Name of the enjoyer	Extent Ac-cts	Relationship with assignee
22/2D1	1.00	232. Chandragiri Balamma w/o Balaiah	Kathari Venkataiah s/o Chinnaiah	0.02	Third Party
			M.Venkataramanmma w/o Murali	0.37	
			Yella Guravaiah s/o Chinna Chellaiah	0.05	
			Yella Muragaiah s/o Chellaiah	0.15	
			Yella Subbalah s/o Chengaiah	0.41	
3/1F1	1.00	222. Reddi Mani	Reddi Venkatamma w/o Nagesh	0.33	Third Party
			Kavali Guravamma w/o Guravaiah	0.33	
			Kathari Sulochana w/o Katalah	0.34	
3/1G1	1.00	224. K.Kattalah	Edulla Suguna w/o Hari babu	0.065	Third Party
			Gonji Bharathi w/o Pothaiah	0.065	
			Kathari Usha s/o Chellaiah	0.065	
			Natham Chellamma w/o Bhaskar	0.33	
			Natham Munemma w/o Chinnaiah	0.065	
			Peringi Chengamma w/o Chellaiah	0.065	
			Picheri Chengamma w/o Dhanjaya	0.065	
			R.Selvi w/o Jeevarathnam	0.065	
			Yella Gnamma w/o Subbalah	0.065	
			Yella Vemallamma w/o Chinna Chellaiah	0.15	
3/1H2	1.00	227. Natham Bhaskar	Kathari Lalitha w/o Venkatesu	0.065	Third Party
			Kathari Vajramma w/o Bhaskar	0.32	
			Peringi Nirmala w/o Venkatesu	0.615	
22/2B2	1.00	233. Reddi Bhaskar	Eduru Guravamma w/o Polalah	0.03	Third Party
			Gogula Santhi w/o Munikrishnaiah	0.57	
			Karuduputtur Veliyamma w/o Natraja	0.04	
			Yella Muragalai s/o Chellaiah	0.36	
3/1H1	1.00	226. Reddi Chellamma	Kathari Subbamma w/o Munaswamy	0.33	Third Party
			Kathari Kanthamma w/o Venkataiah	0.21	
			Peringi Sarawathi w/o Ravi	0.065	
			Peringi Subbamma w/o Sivalah	0.33	
			Thondambattu Malika w/o Mohan	0.065	
3/1B2	1.00	243. Reddi Chengamma	Nimmala Sanyasamma w/o Balaraju	0.35	Third Party
			Reddi Sumathi w/o Subramanyam	0.33	
			Reddi Chellamma w/o Munivelu	0.32	
3/1C1	1.00	244. P.Polamma	Chamada Gopal s/o Ramaiah	1.00	Third Party
22/2B3	1.00	216. B.Dhanamma	Eduru Guravamma w/o Polalah	1.00	Third Party
3/1F2	1.00	223. Reddi Amasaiah	Bandili Dhanamma w/o Munaswamy	0.31	Third Party
			Kavali Sobha w/o Mohan	0.30	
			Mittamalli Ranemma w/o Penchalalah	0.065	
			Natham Kamalamma w/o Chellaiah	0.065	
			Natham Lakshmi w/o Rajendra	0.065	
			Reddi Nagamma w/o Guravalah	0.065	
			Yella Ademma w/o Krishnaiah	0.065	
			Yella Vijayamma w/o Subramanyam	0.065	
22/2C2	1.00	217. B.Chengaiah	Kavali Kamalamma w/o Kuppaiah	0.53	Third Party
			Yella Chendraiah s/o Gopalalah	0.18	
			Yella Chellalah s/o Pedda Kuppaiah	0.04	
			Yella Jagannndham s/o Chellaiah	0.05	
			Yella Krishnalah s/o Chengaiah	0.20	

3/132	1.00	231. Picheri Subbalah	Dasari Chellamma w/o Seenaiah	0.32	Third Party
			Kathari Rathi w/o Kuppaiah	0.02	
			Kavali Sobha w/o Mohan	0.02	
			Peruval Usha w/o Lokanadham	0.32	
3/181	1.00	242. Reddi Venkatesu	Reddi Rajeswaramma w/o Amasaiah	0.32	Third Party
			Yella Bujamma w/o Pedda Kuppaiah	0.42	Third Party
			Reddy Neelamma w/o Venkatesu	0.32	
			Reddy Sarojamma w/o Chellaiah	0.065	
			Yembeti Ramanamma w/o Ramanaiah	0.065	
			Malchi Venkatesu S/o Chengalah	0.065	
			Malchi Chinnamma w/o Seenaiah	0.065	

The writ petitioners are thus not in possession and enjoyment of the lands stated in the writ petition of Siddama Agraharam village. They might have alienated their lands in favour of the present enjoyers. APIIC submitted requisition to the District Collector, Chittoor, for acquisition of patta lands and alienation of DKT/Government lands in the village to APIIC for establishing industrial park. Accordingly, land acquisition proceedings were initiated by the RDO for the patta lands. Action has been taken by the Tahasildar for resumption of DKT lands on payment of *ex gratia* to the original assignees as per the Rules in force. In the course of inspection by the Tahasildar along with his field staff it was noticed that the DKT lands in Sy.no.22/2D1 etcetera are under possession and enjoyment of persons other than the writ petitioners as stated in the table mentioned above. The Tahasildar, therefore, issued individual notices, dated 01.05.2007, to the pattadars/writ petitioners requesting them to show cause, within seven days, as to why DKT patta lands that is Ac.1.00 cents each in Sy.no.22/2D1 etcetera except land in Sy.no.3/1C1 of Siddama Agraharam village, should not be resumed and why the said lands shall not be resumed on the ground that the patta holders alienated the assigned lands to third parties. No objections are filed by the writ petitioners within the stipulated time. The Tahasildar issued orders, dated 21.05.2007,

cancelling the DKT pattas of the petitioners for violation of the conditions of patta/grant, that is, alienating the DKT lands to third parties; and, he resumed the DKT lands to the Government. Necessary entries were made in the village accounts. The said orders have become final. Individual statements were given, on 09.06.2008, by the DKT land holders/writ petitioners stating that the respective lands are not in their respective possessions and enjoyment; and they gave consents for payment of *ex gratia* to the present enjoyers of the said lands. Subsequently, after cancellation of DKT pattas and resumption, the resumed lands, except land in Sy.no.3/1C1, were re-assigned to the present enjoyers as stated in the table below.

Sy. No.	Extent	Classification	DKT No.& date	Name of the Assignee
22/2D1	0.02	Dry	23/4/1418, 02.07.08	Kathari Venkataiah s/o Chinnalah
	0.37	Dry	32/4/1418, 02.07.08	M.Venkataramamma w/o Nurali
	0.05	Dry	40/4/1418, 02.07.08	Yella Guravalah s/o Chinn Chellaiah
	0.15	Dry	43/4/1418, 02.07.08	Yella Muragalah s/o Chellaiah
	0.41	Dry	45/4/1418, 02.07.08	Yella Subbelaiah s/o Chengalah
3/1F1	0.33	Dry	107/4/1418, 02.07.08	Reddi Venkatamma w/o Nagesh
	0.33	Dry	70/4/1418, 02.07.08	Kavali Guravamma w/o Guravalah
	0.34	Dry	66/4/1418, 02.07.08	Kathari Sulochana w/o Kataiah
3/1G1	0.065	Dry	52/4/1418, 02.07.08	Edulla Suguna w/o Hari babu
	0.065	Dry	53/4/1418, 02.07.08	Gonji Bharathi w/o Potthalaiah
	0.065	Dry	68/4/1418, 02.07.08	Kathari Usha s/o Chellaiah
	0.33	Dry	76/4/1418, 02.07.08	Natham Chellamma w/o Bhaskar
	0.065	Dry	79/4/1418, 02.07.08	Natham Munemma w/o Chinnalah
	0.065	Dry	83/4/1418, 02.07.08	Peringi Chengamma w/o Chellaiah
	0.065	Dry	88/4/1418, 02.07.08	Picheri Chengamma w/o Dhanjaya
	0.065	Dry	91/4/1418, 02.07.08	R.Selvi w/o Jeevarathnam
	0.065	Dry	118/4/1418, 02.07.08	Yella Gnamma w/o Subbalaiah
	0.15	Dry	122/4/1418, 02.07.08	Yella Vimalamma w/o Chinn Chellaiah
3/1H2	0.065	Dry	59/4/1418, 02.07.08	Kathari Lalitha w/o Venkatesu
	0.32	Dry	69/4/1418, 02.07.08	Kathari Vajramma w/o Bhaskar
	0.615	Dry	84/4/1418, 02.07.08	Peringi Nirmala w/o Venkatesu

22/282	0.03	Dry	7/4/1418, 02.07.08	Eduru Guravamma w/o Polalah
	0.57	Dry	9/4/1418, 02.07.08	Gogula Santhi w/o Munikrishnaiah
	0.04	Dry	21/4/1418, 02.07.08	Karuduputtur Veliyamma w/o Nalraja
	0.36	Dry	43/4/1418, 02.07.08	Yella Muragalah s/o Chellaiah
3/1H1	0.33	Dry	65/4/1418, 02.07.08	Kathari Subbamma w/o Munaswamy
	0.21	Dry	57/4/1418, 02.07.08	Kathari Kanthamma w/o Venkataiah
	0.065	Dry	85/4/1418, 02.07.08	Paringi Sarawathi w/o Ravi
	0.33	Dry	86/4/1418, 02.07.08	Paringi Subbamma w/o Sivalah
	0.065	Dry	111/4/1418, 02.07.08	Thondambattu Malika w/o Mohan
3/1B2	0.35	Dry	80/4/1418, 02.07.08	Nimmala Sanyasamma w/o Balareju
	0.33	Dry	103/4/1418, 02.07.08	Reddi Sumathi w/o Subramanyam
	0.32	Dry	92/4/1418, 02.07.08	Reddi Chellamma w/o Munivelu
3/1C1	1.00	Dry		Chamada Gopal s/o Ramalah (covered in W.P.No.16441/2007)
22/283	1.00	Dry	7/4/1418, 02.07.08	Eduru Guravamma w/o Polalah
3/1F2	0.31	Dry	47/4/1418, 02.07.08	Bandili Dhanamma w/o Munaswamy
	0.30	Dry	71/4/1418, 02.07.08	Kavali Sobha w/o Mohan
	0.065	Dry	75/4/1418, 02.07.08	Mittamalli Ranemma w/o Penchalalah
	0.065	Dry	77/4/1418, 02.07.08	Natham Kamalamma w/o Chellaiah
	0.065	Dry	78/4/1418, 02.07.08	Natham Lakshmi w/o Rajendra
	0.065	Dry	97/4/1418, 02.07.08	Reddi Nagamma w/o Guravalah
	0.065	Dry	114/4/1418, 02.07.08	Yella Ademma w/o Krishnaiah
	0.065	Dry	121/4/1418, 02.07.08	Yella Vijayamma w/o Subramanyam
22/2C2	0.53	Dry	24/4/1418, 02.07.08	Kavali Kamalamma w/o Kuppalah
	0.18	Dry	38/4/1418, 02.07.08	Yella Chendralah s/o Gopalaiah
	0.04	Dry	39/4/1418, 02.07.08	Yella Chellalah s/o Pedda Kuppalah
	0.05	Dry	41/4/1418, 02.07.08	Yella Jagannatham s/o Chellaiah
	0.20	Dry	42/4/1418, 02.07.08	Yella Krishnaiah s/o Chengalah
3/1J2	0.32	Dry	50/4/1418, 02.07.08	Dasari Chellamma w/o Seenalai
	0.02	Dry	62/4/1418, 02.07.08	Kathari Rathi w/o Kuppalah
	0.02	Dry	71/4/1418, 02.07.08	Kavali Sobha w/o Mohan
	0.32	Dry	87/4/1418, 02.07.08	Penyal Usha w/o Lokanatham
	0.32	Dry	100/4/1418, 02.07.08	Reddi Rajeswaramma w/o Anasaiah
3/1B1	0.42	Dry	115/4/1418, 02.07.08	Yella Bujamma w/o Pedda Kuppalah
	0.32	Dry	98/4/1418, 02.07.08	Reddy Neelamma w/o Venkatesu
	0.065	Dry	101/4/1418, 02.07.08	Reddy Sarojamma w/o Chellalah
	0.065	Dry	123/4/1418, 02.07.08	Yembeti Ramanamma w/o Ramanalah
	0.065	Dry	74/4/1418, 02.07.08	Malchi Venkatesu s/o Chengalah
	0.065	Dry	72/4/1418, 02.07.08	Malchi Chinnamma w/o Seenalai
	1.00		/4/1418, 02.07.08	

Subsequently, the DKT pattas issued afresh to the above said assignees were also cancelled and lands were resumed to the Government by the Tahasildar vide proceedings, dated 10.07.2008, by invoking condition no.10 of DKT pattas. After obtaining necessary orders from the District Collector, *ex gratia* amounts were paid to such assignees/enjoyers during July, 2008, through bank demand drafts. The writ petitioners and their family members have also encroached DKT lands of the village. For such of the DKT lands, which are encroached by the writ petitioners, *ex gratia* amounts were paid to some of the

writ petitioners or their family members by bank demands drafts of State Bank of India, Varadaiahpalem. After lapse of 1½ years, the present writ petition is filed. One Sadasivaiah filed WP(PIL).No.24604 of 2008 before this Court. The entire record is submitted to this Court in the said writ petition. The contention of the writ petitioners that at the time of inspection, the signatures of the writ petitioners were obtained on the inspection notes, on 31.07.2008, is not correct. The 3rd respondent has neither visited the Siddama Agraharam village in July, 2008 nor had inspected the subject lands. Since DKT pattas in respect of assigned lands of a total extent of Ac.13.00 cents in Sy.No.22/2D1 except S.No.22/20/3 of Siddama Agraharam village have been cancelled and the assigned lands are resumed to the Government *vide* proceedings, dated 21.05.2007, and as the Government have issued orders for alienation of Government lands in the village in favour of APIIC for establishment of industrial park *vide* GOMs.no.1111 Revenue (ASSN-IV) Department, dated 16.09.2008, the DKT pattas are not in force and the writ petitioners are not entitled to any *ex gratia*.

5. I have given detailed and thoughtful consideration to the facts and submissions made in line with the pleadings.

6. The incontrovertible fact is that the lands which are mentioned in the table of the pleadings of the writ petitioners, which is extracted supra, were originally assigned to the writ petitioners under DKT pattas. The petitioners also filed the copies of their DKT pattas along with the material papers. However, the reasons assigned by the official respondents for denial of payment of *ex gratia* to the petitioners are as follows: - "The writ petitioners are

not in possession and enjoyment of the lands assigned to them under DKT pattas. Persons other than the assignees as mentioned in the second table extracted in the counter affidavit are in possession of the assigned lands. During the course of field inspection, the assigned lands were found to be in possession and enjoyment of the third parties as stated in the said table mentioned in the counter affidavit. The writ petitioners/their relatives/adjacent pattadars never objected for enjoyment of the assigned lands by third parties. Having found that the assignees are not in possession of the lands assigned under DKT pattas and that some third parties are in enjoyment of the assigned lands, it is noted that the assignees might have alienated their assigned lands in favour of the present enjoyers. The Tahasildar issued show cause notices to the writ petitioners requesting to show cause within seven days from the receipt of the notices as to why DKT pattas shall not be cancelled and the lands assigned under DKT pattas shall not be resumed on the ground of alienating the assigned lands contrary to the conditions of patta/grant. As no objections are filed, the Tahasildar by his proceedings, dated 21.05.2007, issued orders cancelling the DKT pattas and resumed lands assigned under DKT to the Government and made entries in the village revenue records. Thereafter, the lands as mentioned in the last table in the counter affidavit were assigned to the enjoyers by issuing DKT pattas, dated 02.07.2007, to the respective enjoyers. In a while, those DKT pattas issued to the enjoyers were also cancelled invoking the condition no.10 of the patta *vide* proceedings of the Tahasildar, dated 10.07.2008, and the lands were resumed for the public purpose and *ex gratia* amounts were paid to such assignees/enjoyers. Since the writ petitioners alienated their assigned lands and their DKT pattas were

cancelled and the resumed lands were reassigned to the enjoyers and *ex gratia* amounts were paid to them on resumption of the re-assigned lands after cancellation of DKT' pttas issued to them, the petitioners are not entitled to the relief claimed in the writ petition.'

7. Admittedly, as on the date of requisition given by the APIIC for acquisition of the lands in the village and also as on the date of initiation of acquisition proceedings and the date of notification under Section 4(1) of the Act issued insofar as acquisition of private/patta lands in the village, the petitioners are the holders of respective DKT' pttas in respect of their subject assigned lands and their DKT' pttas in respect of the lands, which are not in dispute, were not cancelled. Though it is the case of the respondents that at the time of field inspection it was noticed that some third parties are in possession of the assigned lands and not the original assignees and it was stated that the assignees might have alienated the lands, the counter affidavit is conspicuously silent about the names of the officers who made field inspection and also the date of said inspection. No inspection report, if any, is produced with the counter. On the other hand, though the petitioners contended that an inspection was made and that they were found to be in possession of their respective assigned lands and that their signatures were obtained in the inspection report of the inspecting officer, the said contention is denied in the counter. Further, though it is the case of the respondents that the DKT' pttas of the original assignees/writ petitioners were liable for cancellation on the ground that they transferred the assigned lands, yet, the dates of transfers and the details like modes and manner of transfer are nowhere mentioned. No documents evidencing such transfers are produced. Even the non official

respondents have not filed any counters and preferred to remain *ex parte*. In this regard, it is profitable to refer to Section 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for brevity, 'Act 9 of 1977'), which read as under:

"Section 3: Prohibition of transfer of assigned lands (1) Where before or after the commencement of this Act, any land has been assigned by the Government to a landless poor person for purposes of cultivation or as a house site, then, notwithstanding anything to the contrary in any other law for the time being in force or in the deed of transfer or other document relating to such land, it shall not be transferred and shall be deemed never to have been transferred, and accordingly no right or title in such assigned land shall vest in any person acquiring the land by such transfer. (2) No landless poor person shall transfer any assigned land, and no person shall acquire any assigned land, either by purchase, gift, lease, mortgage, exchange or otherwise. (3) Any transfer or acquisition made in contravention of the provisions of sub-section (1) or sub-section (2) shall be deemed to be null and void. (4) The provisions of this section shall apply to any transaction of the nature referred to in sub-section (2) in execution of a decree or order of a civil court or of any award or order of any other authority. (5) Nothing in this section shall apply to an assigned land which was purchased by a landless poor person in good faith and for valuable consideration from the original assignee or his transferee prior to the commencement of this Act and which is in the possession of such person for purposes of cultivation or as a house site on the date of such commencement."

As per the provision of the said Section, land assigned by the Government to a landless poor person for the purpose of cultivation or as a house site shall not be transferred; and, even if any transfer is made, it shall be deemed that such land or site has never been transferred; and, no right or title in such assigned land or site shall vest in any person acquiring the land/site by such transfer. So, even if it is to be assumed that there were transfers of certain extents of the

assigned lands, yet, it shall be deemed that the said extents of land have never been transferred; as a consequence, it follows that the right or title in the entire assigned lands continued to vest in the original assignees. Though one of the contentions of the respondents is that the original assignees gave consents for paying *ex gratia* to the enjoyers, no record in support of the said contention is produced before this Court.

8. Further, for consequences of breach of the provisions of Section 3, the competent officer shall take appropriate action under Section 4 of the Act 9 of 1977, which reads as under:

4. Consequences of breach of provisions of Section 3:-

(1) If in any case, the District Collector or any other officer not below the rank of a Mandal Revenue Officer, authorised by him in this behalf, is satisfied that the provisions of sub-section (1) of Section 3 have been contravened in respect of any assigned land he may, by order—

(a) take possession of the assigned land after evicting the person in possession after such written notice as the Collector or Mandal Revenue Officer may deem reasonable and any crop or other produce raised on such land shall be liable to forfeiture and any building or other construction erected or anything deposited, thereon shall also be forfeited, if not removed by him, after such notice, as the Collector or the Mandal Revenue Officer may direct. Forfeitures under this section shall be adjudged by the Collector or Mandal Revenue Officer and any property forfeited shall be disposed of as the Collector or Mandal Revenue Officer may direct.

(b) restore the assigned land, other than those lands/areas as may be notified by the Government from time to time in public interest and for public purpose:--

(i) to the original assignee if he or she is eligible as per the norms fixed in this behalf, as on the date of restoration for one time; or

(ii) assign to other eligible landless poor person:

Provided that where the original assignee or his legal heir, after the first restoration transfers the assigned land, the land shall be resumed for assignment to the other eligible landless poor:

Provided further that if no eligible landless poor persons are available in the village/areas, the resumed land will be utilised for public purpose.

Explanation:- For the purpose of this clause, 'public interest' and "public purpose" shall mean and include, the Weaker Section Housing, Public Utility, Infrastructure development, Promotion of Industries and Tourism or for any other public purpose;

(c) In the areas which may be notified by Government from time to time, lands resumed under clause 4(a) above, shall be utilised for public purpose.

(2) An order passed in revision under Section 4-B and subject to such order, the decision in appeal under Section 4-A and subject to the said orders in revision and appeal, any order passed under sub-section (1) shall be final and shall not be questioned in any Court of law and no injunction shall be granted by any Court in respect of any proceeding taken or about to be taken by any officer of authority or Government in pursuance of any power conferred by or under this Act.

(3) For the purposes of this Section, where any assigned land is in possession of a person, other than the original assignee or his legal heir, it shall be presumed, until the contrary is proved, that there is a contravention of the provisions of sub-section (1) of Section 3.

In the case on hand, even according to the case of the respondents, show cause notices were issued to the original DKT patta holders to show cause as to why their DKT pattas shall not be cancelled and why their assigned lands shall not be resumed for violation of conditions of patta/grant namely transfer of the assigned land to third parties. Further, a time of seven days was given to the respective petitioners as per the contentions of the respondent. No notices were given to the present enjoyers stating that possessions of the lands would be taken as the transfers in their favour in breach of provisions of Act 9 of 1977, are void and invalid. Further, Rule 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, 1977, contemplates that the District Collector or the authorized officer shall, before taking action under the

provisions of Act 9 of 1977 issue notices in form I to the person who acquired any assigned land in contravention of the provisions of sub-section (2) of Section 3 of the said Act 9 of 1977 and shall take further action after expiry of 15 days specified in the notice. Thus, while cancelling the pattas allegedly of the original assignees/writ petitioners, the procedure contemplated under Section 4 of the Act 9 of 1977 was not followed. Further as per the provision of the section 4, in case of contravention of provision of Section 3, the competent officer can take possession of the assigned land after evicting the person in possession after a written notice which may deem reasonable and such assigned land taken possession can be restored to the original assignee if he continues to be eligible as per Government norms; or it may be assigned to any other landless poor person; or it may be utilized for any public purpose if no landless poor person is available in the village or area for assignment. The competent officer admittedly has not considered the entitlement of the original assignees/or his/her successor for restoration of the assigned lands to them. Thus, the DKT pattas of the petitioners/original assignees were allegedly cancelled that too without following the procedure established by law and the lands were allegedly re-assigned to the alleged enjoyers that too after initiation of the acquisition proceedings. The facts narrated supra reflect that in post haste the DKT pattas were cancelled and fresh DKT pattas were granted to third parties/enjoyers and in a while the said pattas issued to the said enjoyers were also cancelled and the lands were resumed for the purpose desired by APIIC and *ex gratia* amounts were said to have been paid to the assignees/enjoyers. The whole exercise is thus contrary to the settled legal position and is hence, illegal. As on the crucial dates, that is, as on the date of

requisition given by the APIIC for acquisition of the lands in the village and also as on the date of initiation of acquisition proceedings and further, as on the date of notification under Section 4(1) of the Act issued insofar as acquisition of private/patta lands in the village, the petitioners are the holders of respective DKT pattas in respect of their subject assigned lands and their DKT pattas in respect of the lands, which are not in dispute, were not cancelled and only after acquisition proceedings were initiated, the proceedings for cancellation of DKT were undertaken. For all the above reasons, the action of the official respondents in paying *ex gratia* to the third parties/enjoyers other than the original assignees cannot be treated as payment of compensation for the subject land to the original/rightful claimants. Accordingly, this Court finds that the writ petitioners are entitled to the relief claimed in the writ petition.

9. A Larger Bench of this Court **in Land Acquisition Officer – cum – R.D.O., Chevella Division, Hyderabad and others v. Mekala Pandu and others (LB)**¹, held that even if assigned lands are acquired for public purpose, the assignees have to be treated as full owners of the land and they are entitled to compensation equivalent to the full market value of the land along with other benefits on par with full owners. It was also held that no condition incorporated in Patta or Deed of Assignment shall operate as a clog putting any restriction on the right of the assignee to claim full compensation as an owner of the land. In that view of the matter, the writ petitioners/original assignees are entitled to compensation equivalent to full market value of land along with the other benefits on par with full owners.

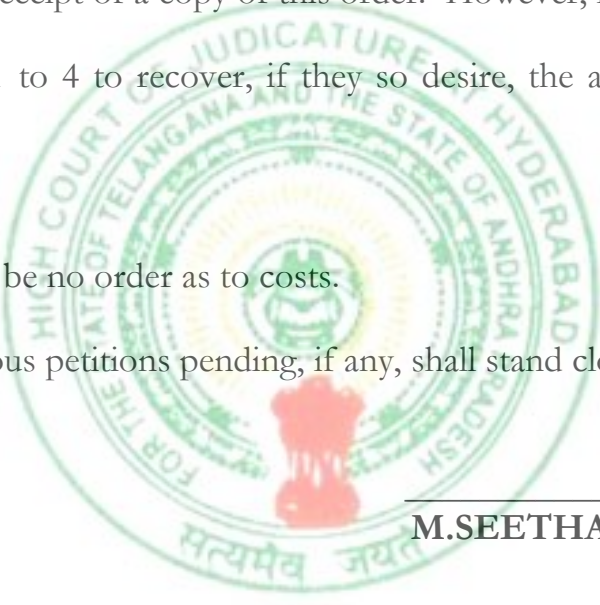
¹ 2004 (2) ALD 451

10. On the above analysis, this Court holds that the contentions of the writ petitioners merit consideration and the writ petition deserves to be allowed.

11. In the result, the Writ Petition is allowed and the respondents 1 to 4 are directed to pay compensation, equivalent to the market value of the lands, and extend other benefits to the petitioners in respect of their respective lands assigned to them under DKT pattas as per the provisions of the Act, as if they are the full owners of their respective DKT patta lands/assigned lands. The necessary exercise in the above regard shall be completed within three months from the date of receipt of a copy of this order. However, liberty is reserved to the respondents 1 to 4 to recover, if they so desire, the amounts paid to the third parties.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.



M.SEETHARAMA MURTI, J

10.10.2018

Vjl