

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.C.No.1809 of 2018

&

Rev.I.A.No.2 of 2018 in WP.No.3102 of 2012

COMMON ORDER :

Heard counsel for petitioner in Contempt Case No.1809 of 2018 and for respondent in Rev.I.A.No.2 of 2018 in WP.No.3102 of 2012; and the learned Government Pleader for Land Acquisition for respondent in C.C.No.1809 of 2018 and for Review Petitioners in I.A.No.2 of 2018 in WP.No.3102 of 2012.

Rev.I.A.No.2 of 2018 in WP.No.3102 of 2012 :

2. This Review Petition is filed seeking review of the order dt.29.08.2017 passed by this Court in WP.No.3102 of 2012.

3. The Review Petitioners in I.A.No.2 of 2018 in WP.No.3102 of 2012 are respondents in the above Writ Petition.

4. The parties will be referred to as per their array in the Review Petition.

5. Initially, the husband of respondent by name Chinna Venkataiah was granted D.K.T. patta by the Revenue Officials of an extent of Acs.4.00 guntas in Survey No.22/1 of Changambakam Village, Sathyavedu Mandal, Chittoor District vide proceedings D.K.T.No.35/4/1386 dt.03.06.1978.

Subsequently, the husband of respondent died, and on his death the petitioners recognized the respondent as his legal heir and issued pattadar pass book and title deed to her under the provisions of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971. When the said land was found necessary for establishment of an Industrial Park, a resumption order was passed in proceedings ROC.No.B/332/07, dt.18.05.2007, by the Tahsildar, Sathyavedu Mandal (4th petitioner) resuming the land which was later alienated to the Andhra Pradesh Industrial Infrastructural Corporation (A.P.I.I.C.) by the State Government vide G.O.Ms.No.1111 Revenue (Assign-IV) Department dt.16.09.2008 for establishment of the Industrial Park.

6. The respondent filed WP.No.3102 of 2012 contending that though she was issued pattadar pass book and title deed by 4th petitioner for the above land, after death of her husband, she was in possession and enjoyment of the subject land as legal heir; that petitioners, without paying any compensation as per the decision in **LAO-cum-Revenue Divisional Officer, Chevella Division and Others v. Mekala Pandu and others**¹ resumed the land, and they are bound to pay compensation equivalent to full market value of the land and other benefits on par with full owners of the land even in cases where the assigned land was taken possession

¹ 2004 (2) ALT 546

by the State in accordance with the conditions of grant of patta, and even though such resumption is for a public purpose.

7. Counter-affidavit was filed by petitioners stating that though pattadar pass book and title deed was issued to respondent she was not in possession of the land, and that in the course of field inspection it was found to be in possession of respondent's son and her brother-in-law's son, by name G. Muni Krishnaiah. It was stated that since respondent was not in possession of the land *ex gratia* amount of Rs.5,00,000/- was paid to respondent's son and her brother-in-law's son on 19.06.2007 and 21.07.2007, respectively; and so, the respondent was not eligible for grant of *ex gratia* as it was already paid to respondent's legal heirs on the ground that the property in question was joint family property.

8. The Writ Petition was allowed on 29.08.2017 by this Court holding that after death of respondent's husband, the respondent was recognized as his legal heir and pattadar pass book and title deed was issued to her; and so without issuing any notice to respondent, the petitioners could not have determined *ex gratia*, and pay to her son or to her brother-in-law's son treating the land as joint family property. It was also stated that respondent was aged (65) years at the time when the Writ Petition was filed in the year 2012, and was aged more than (60) years at the time when

the land was resumed in 2007, and so, naturally she would be getting the land cultivated through her son or somebody else, and from this it cannot be presumed that she is not in possession of the land. It was also held that when respondent herself was alive, petitioners cannot pay amount to her son since he would inherit the property only after her death. It was held that the action of petitioners in paying *ex gratia* to respondent's son and to her brother-in-law's son cannot be treated as payment of any amount to respondent, particularly when she was recognized as owner of the subject land by issuance of pattadar pass book and title deed to her by petitioners after the demise of respondent's husband who was the original assignee; and she alone is entitled to compensation equivalent to full market value of the land and other benefits as if she is the full owner thereof as per the decision in **Mekala Pandu** (1 supra). Therefore, the Writ Petition was allowed, and petitioners were directed to pay compensation to respondent equivalent to full market value of the land and other benefits under the provisions of the Land Acquisition Act, 1894 as if she is the full owner of the land within three (03) months from the date of receipt of copy of the order, and liberty was granted to petitioners to recover the amounts paid to respondent's son and to her brother-in-law's son.

9. After this order was passed, it was not implemented and so the petitioner filed C.C.No.1809 of 2018 alleging that no exercise was done by the District Collector, Chittoor to make payment of any compensation to petitioner.

10. In C.C.No.1809 of 2018, 'Notice Before Admission' was ordered on 20.07.2018; and thereafter, the Joint Collector, Chittoor issued proceedings in G2/5365/2007, dt.20.11.2018, stating that he had issued notice on 02.04.2018 to respondent in the Review Petition / Petitioner in Contempt Case to prove her title over the subject land for taking further action, but she had refused to take the notice and also did not attend the enquiry before the authorities or filed any documentary evidence in support of her claim, and so it is difficult to initiate action as per the orders passed by this Court.

11. Thereafter, the District Collector, Chittoor filed Rev.I.A.No.2 of 2018 in WP.No.3102 of 2012 on behalf of respondents in the Writ Petition.

12. The principal contention of the learned Government Pleader for Revenue, appearing for Review Petitioners / respondents in WP.No.3102 of 2012, is that there was a resumption order passed on 18.05.2007 and that copy of the same was not filed along with the counter-affidavit in the Writ Petition;

that the assignment granted to respondent's husband itself was cancelled under the said resumption order; that this was not brought to the notice of the Court when the Writ Petition was decided, and so the order dt.29.08.2017 passed in WP.No.3102 of 2012 is liable to be reviewed. It is also contended that the respondent in the Review Petition was not co-operating with the Review Petitioners to establish her claim over the property and she cannot contend that the District Collector, Chittoor had violated the order passed by the Court in the Contempt Case.

13. The counsel for respondent in the Review Petition refuted the said contentions and pointed out that the order dt.18.05.2007 was not an order of resumption on the pretext that the original assignee had violated the terms of the grant; that the said order itself indicated that the 'legal heirs' of the original assignee were cultivating the land and it only recorded that the lands were resumed for being handed over to the A.P.I.I.C. for public purpose; the same had been noticed in para no.2 of the order passed by this Court dt.29.08.2017 passed in WP.No.3102 of 2012; and so, there is no ground to review the said order. He also pointed out that once the High Court in the said order accepted the title of the petitioner in the Contempt Case / respondent in the Review Petition and directed payment of compensation to her equivalent to full market value of the land and other benefits

under the provisions of the Land Acquisition Act, 1894 as if she is the full owner of the land within three (03) months, it is not open to the Joint Collector, Chittoor to go into the question of her title and seek to deny compensation on the ground that she did not come forward to prove her title.

14. It is important to note that the order dt.18.05.2007 of the 4th petitioner, i.e., Tahsildar, Satyavedu itself indicates that the original assignee Chinna Venkataiah had died and the land was in possession of his legal heirs. The said proceeding does not show that any notice was given to the petitioner in the Writ Petition / respondent in the Review Petition at all.

15. Though the learned Government Pleader, appearing for Review Petitioners, sought to contend that notice was given to the original assignee himself, since that would be an impossible task since he had died by then even according to the said order, the said contention cannot be countenanced.

16. A reading of the said order indicates that resumption of the land was made by the 4th petitioner only for public purpose but not on account of any violation of the terms of the grant by the original assignee or by the legal heirs.

17. It is also important to note that no contention was advanced by the petitioners in the Review Petition when the Writ Petition

was heard that the original assignee's grant itself had been cancelled, and so his wife was not entitled to any compensation or *ex gratia*.

18. The said contention was advisedly not taken and argued, obviously because by the time the said order was passed on 18.05.2007 by the 4th petitioner, the original assignee was no more and pattadar pass book Ex.P.2 had been issued to the respondent by then.

19. There is no denial in the counter-affidavit filed in the Writ Petition by the Review Petitioners about grant of pattadar pass book and title deed to the respondent in the Review Petition. It cannot be denied that pattadar pass book and title deed would be given to a person only if he or she is found to be in possession of the land referred to therein. So, the plea raised in the counter-affidavit filed in the Writ Petition that the respondent in the Review Petition was not in peaceful possession and enjoyment is, therefore, found false.

20. Also, as was rightly held by me when the Writ Petition was decided the respondent in the Review Petition was aged (65) years and she would have naturally taken help of her son or other relative to cultivate the land and from such conduct no inference

can be drawn that she was not in possession and enjoyment of the land.

21. There is, therefore, no error much less an error apparent on the face of record warranting Review of the order dt.29.08.2017 passed in WP.No.3102 of 2012.

22. Therefore, Rev.I.A.No.2 of 2018 in WP.No.3102 of 2012 is dismissed with costs of Rs.50,000/- to be paid by the District Collector, Chittoor personally.

23. The Government of Andhra Pradesh, represented by the Principal Secretary (Revenue), Velagapudi, Krishna District is directed to initiate disciplinary action against the District Collector, Chittoor for filing such frivolous Review Petition and wasting precious time of the Court.

C.C.No.1809 of 2018 :

24. Coming to the Contempt Case No.1809 of 2018, in my opinion, the order dt.20.11.2018 passed by the Joint Collector, Chittoor which is the basis for denying compensation, pursuant to the order dt.29.08.2017 passed by this Court in WP.No.3102 of 2012, cannot be sustained for the reason that this Court had already held that the petitioner in the Contempt Case was entitled to compensation as full owner of the land.

25. It is not open to the Joint Collector, Chittoor to sit in appeal over this Court's order and cast doubts about the title of the petitioner in the Contempt Case.

26. Obviously, the respondent in the Contempt Case had instigated the Joint Collector, Chittoor to pass this order with a view to circumvent the contempt proceedings and avoid implementation of the order dt.29.08.2017 passed in WP.No.3102 of 2012.

27. Therefore, the Contempt Case is allowed. The District Collector, Chittoor as well as the Joint Collector, Chittoor are held to have willfully disobeyed the order dt.29.08.2017 passed by this Court in WP.No.3102 of 2012, and sentenced to a fine of Rs.2,000/- each payable within a period of four (04) weeks from the date of receipt of copy of the order.

28. The State of Andhra Pradesh, represented by its Principal Secretary (Revenue) Department is directed to initiate disciplinary action against the Joint Collector, Chittoor also for this conduct in trying to over-reach the orders passed by this Court.

29. The District Collector, Chittoor is granted one (01) months' time to comply with the order dt.24.10.2017 passed in WP.No.18152 of 2012.

30. Accordingly, Rev.I.A.No.2 of 2018 in WP.No.3102 of 2012 is dismissed with costs as above, and Contempt Case No.1809 of 2018 is allowed with costs as above.

31. As a sequel, miscellaneous petitions pending if any in the Contempt Case as well as Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 05.12.2018

Ndr/*

