

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

I.A.No.3 of 2017 (W.P.M.P.No.40390 of 2017)

AND

WRIT PETITION No.17169 of 2014

COMMON ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner requesting to issue a writ order, particularly in the nature of writ of mandamus declaring the action of the respondents in interfering with the petitioner's possession of the land, to the extents of Ac.4.00 cents out of Ac.7.86 cents, in Survey Nos.154/2A1 & 154/2A and Ac.1.01 cents in Survey No.153/3A & 153/1, situated in Someswaram Village, Alapadu Gram Panchayat, Kaikaluru Mandal, Krishna District, as illegal, arbitrary and contrary to the Articles of the Indian Constitution and to direct the respondents not to interfere with the peaceful possession and enjoyment of the petitioner over the afore-stated lands.

2. I have heard the submissions of Sri *T.V.V.K.Rao*, learned counsel appearing for the petitioner, of the learned Government Pleader for Irrigation (A.P.), appearing for the respondents 1 to 3; and of the learned Government Pleader for Revenue (A.P.), appearing for the respondents 4 & 5. I have perused the material record. Though an implead petition has been filed and pending, none appeared for the implead petitioner.

3. From the pleadings, submissions made and the contents of the documents, the following facts and aspects are discernible: 'The subject land was originally acquired for Gudivada Upputeru drain improvement and was later found to be a surplus land. Since the

subject land, which was acquired, was identified as surplus land and was not required by the Irrigation Department, the same was leased out to the petitioner, who is the original owner, for having a fish tank; and, the S.E. (Irrigation), Eluru, in his letter, dated 07.07.2000, has also requested for permission for reconveyance of unutilized land to the original owner on payment of market value. Therefore, the issue was placed before the District Committee constituted *vide* G.O.Ms.No.29, dated 26.02.1999. The committee expressed that there are no immediate takers or users of the land and it should be disposed of in an auction-cum-tender system; further, as the Government *vide* Memo No.88393/LA(A2)/99, dated 08.08.1999, directs that wherever claimants request for reconveyance for the lands acquired under the Land Acquisition Act, 1894, the matter has to be referred to the Government's Administrative Department concerned through the C.C.L.A instead of taking a decision at the District level.'

4. In view of the facts afore-stated and as the land is no longer required by the Government and as the land is still in possession of the original owner, though on lease, the term of which is stated to have expired in the year 2002, the Chief Commissioner of Land Administration (A.P.), by his letter, dated 16.05.2003, addressed to the Secretary to the Government, I & CAD Department, requested to consider the proposals for reconveyance as deemed fit in the matter in consultation with Law department and issue orders at an early date. Thereafter, the Joint Secretary to Government (Irrigation) addressed a letter, dated 13.09.2004, to the Engineer-in-Chief (Irrigation), Hyderabad, requesting to examine the proposal, in detail, and offer his specific remarks in the matter for taking further

necessary action. The Joint Secretary to Government (Irrigation) also addressed a letter, dated 13.09.2004, to the said Engineer-in-Chief (Irrigation), Hyderabad, requesting to examine the proposal, in detail, and offer his specific remarks in the matter for taking further necessary action.

5. In this backdrop of the above stated undisputable facts, learned counsel for the petitioner submits that the petitioner's request for reconveyance is under consideration of the Government and that though the term of lease had expired, he is entitled to continue in possession of the property till a considered decision is taken by the Government either way in the matter of re-conveyance of the surplus land to the petitioner on payment of market value, which the petitioner is prepared to pay on the clearance of the proposal in his favour.

6. However, learned Government Pleader for Irrigation submits that on expiry of the term of lease in the year 2002, the petitioner is an encroacher of the subject land; that the land belongs to the Irrigation Department; that the petitioner is unauthorizedly continuing in possession of the subject land, even after the expiry of the period of lease, without any permission or extension of lease; and, that the land is now required by the Irrigation Department for the second phase of Gudivada Upputeru drain improvement.

7. Having given earnest consideration to the facts and submissions, this Court is of the considered view that the writ petition can be disposed of with appropriate directions to meet the ends of justice.

8. In the result, the I.A.No.3 of 2017 (W.P.M.P.No.40390 of 2017) is closed and the Writ Petition is disposed of directing the respondents 1 & 2 to take, within three (03) weeks from the date of receipt of a copy of this order, a considered decision in the matter, as per law and procedure, on the request of the petitioner and the proposal, which is pending, and communicate the decision taken thereon to the petitioner within a week thereafter. It is needless to state that till such a decision is taken in the matter and is communicated to the petitioner, *status quo* as regards possession of the petitioner over the subject land shall be maintained. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.



M.SEETHARAMA MURTI, J

Date: 11th July, 2018

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