

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

W.P.NO.1418 OF 2004

ORDER:

This writ petition is filed seeking to direct the Commissioner (Appeals), Hyderabad, respondent No.1, to restore the patta granted by the Director of Settlements, A.P., Hyderabad, respondent No.2, in his proceedings A.P No.262/82, dated 28-5-1984 as per the findings given by the first respondent in his orders in Ref.No.L2/520/98, dated 30.8.2003.

2. It is the case of the petitioner that she is the owner of land admeasuring Ac.7.00 in R.S.No.659/3, situated at Buttayagudem Village and Mandal, West Godavari District, which was gifted by her father Sri Gadde Venkataratnam. The land was originally belongs to Guttala Zameen Estate, West Godavari District, which was taken over by the Government on 4-2-1953 under the provisions of the Andhra Pradesh Estate (Abolition and Conversion into Ryotwari) Act, 1948. One Mr.Karatam Somaiah was the pattedar before pre-abolition period and thereafter there were various conveyances and finally, the father of the petitioner purchased the same and later gifted to the petitioner. The said land was situated in agency area of West Godavari District and it is an estate village attracting Regulation 1 of 1970 as well as A.P. Schedule Area Ryotwari Settlement Act 2 of 1970.

3. It is further stated that the request of the petitioner for grant of rythwari patta was rejected by the Settlement Officer, Eluru, respondent No.3, in his *suo motu* proceedings under Section 9 of

Regulation 2 of 1970, vide proceedings dated 30.7.1977. Aggrieved thereby, the petitioner preferred appeal before the second respondent and the same was allowed by order dated 28-5-1984, setting aside the order of the 3rd respondent with a direction to grant patta to the petitioner. The Mandal Revenue Officer, Buttayagudem, respondent No.4 preferred an appeal under Section 9(3) of Regulation 2 of 1970 against the order dated 28-5-1984 before the Commissioner of Survey Settlement and Land Records, A.P., Hyderabad and the same was allowed by order dated 17-1-1998, setting aside the order dated 28.5.19084. The petitioner filed a review under Section 17(f) of Regulation 2 of 1970 read with Rule 10 of the Rules framed in G.O.Ms.No.153, Revenue (TW.II) Department, dated 5-2-1971, read with Section 114 and Order 47 Rule 1 CPC before the Commission of Survey Settlements, Land Records, A.P., Hyderabad and the same was disposed of by order dated 30-8-2003, remanding the matter to the second respondent to dispose of the same in accordance with law. Aggrieved by the said order, the present writ petition has been filed.

4. During the course of arguments, the learned counsel appearing for the petitioner placed on record to the effect that the petitioner is in possession of the property and the Special Deputy Collector (Tribal Welfare), Eluru in S.R.No.256 of 84 by order dated 30-4-1985 has disallowed the complaint of the Special Deputy Tahsildar and dropped the enquiry in favour of the petitioner, holding that the transaction is prior to commencement of the Act and the petitioner is entitled for the relief.

5. The petitioner further placed reliance on G.O.Ms.No.68, Social Welfare (LTR.I) Department, dated 9.07.2002, which clarifies that Regulation 1 of 1970 shall have overriding effect of any other law in the tribal areas. The petitioner also relied upon the judgment of this Court in **Gadde Nagabushanamma Vs. Government of A.P.**¹, wherein this Court directed the Government to reconsider the matter and the Government issued G.O.Ms.No.68 dated 09.07.2002 placing reliance of overriding effect of Regulation 1 of 1970.

6. The Assistant Government Pleader, Social Welfare (A.P), placed reliance on the counter affidavit dated 15-3-2018 and would submit that the Government has taken over possession of the land admeasuring Ac.6.94 cents in R.S.No.659/3 by evicting the petitioner on 20-06-1998 by conducting a panchanama and thereafter, on 20-8-2002, pattas were granted in favour of landless poor tribals by allotting them each an extent of Ac.1.00 land. The same has been denied by the learned counsel for the petitioner. This Court granted interim stay in favour of the petitioner in W.P.M.P.No.1840 of 2004 on 28-1-2004.

7. The impugned order herein is the one remanding the matter to the lower authority to decide the same on several issues and this Court is of the opinion that the subject matter is seized by the authorities for enquiry and more so, G.O.Ms.No.68, dated 9-7-2002, has not been referred and dealt with in the impugned order.

¹ 1999 (5) ALD 430

8. Accordingly, the writ petition is disposed of, remanding the matter to hear the petitioner afresh. The petitioner is at liberty to file fresh grounds of review before the first respondent within a period of four weeks from the date of receipt of a copy of this order and thereafter, the first respondent shall decide the review within three months thereafter by giving due opportunity of personal hearing in view of the fact that the petitioner is enjoying interim stay since 2004 and in view of the disputed question of fact of dispossession. Both parties shall maintain status-quo in respect of the subject land pending disposal of the review petition before the first respondent. No order as to costs. As a sequel, the miscellaneous petitions pending if any shall stand closed.

Date: 27-07-2018
Shr

T.AMARNATH GOUD, J

