

**HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE S.V.BHATT**

WRIT APPEAL Nos.1260 AND 1030 OF 2017

COMMON JUDGMENT: *(Per the Hon'ble Sri Justice S.V.Bhatt)*

W.A.No.1260 of 2017 is filed by respondents 1 to 4 and directed against the order dated 23rd February,2017 in W.P. No.20953 of 2015.

Writ Appeal No.1030 of 2017 is filed by respondents 6 to 9 in W.P. No.20953 of 2015.

Heard the learned Government Pleader for Assignment, Mr.V.R.Reddy Kovvuri holding for Ms.S.Parineetha and Mr.Siddhartha Sarma for the parties.

The parties are referred as arrayed in the writ petition.

W.P. No.20953 of 2015 is filed for Mandamus declaring the action of 4th respondent in fabricating the record vide proceedings dated 30th March,2015, to reflect petitioner's death and paying compensation to 5th respondent and also the proceedings of 2nd respondent dated 15.09.2016 Roc.G2/1944/2014 as illegal and unconstitutional.

The writ petitioner was an assignee of an extent of Ac.1.00 cts. of land in Sy.No.382-6 of Ramachandrapuram Village, Mallavaripalem, East Panchayat, Satyavedu Mandal, Chittoor District.

The case of writ petitioner is that she is a landless poor person and respondents 1 to 4 recognizing the status of writ petitioner and

also that the writ petitioner satisfies the eligibility criteria assigned an extent of Ac.1-00 in Survey No.382-6 of Ramachandrapuram Village, Mallavaripalem, East Panchayat, Satyavedu Mandal, Chittoor District through the DKT Patta No.19/4/1411 dated 30.10.2001. The writ petitioner is the wife of 5th respondent. The writ petitioner alleges that due to differences with her husband and to eke out livelihood the writ petitioner has been living apart from 5th respondent for quite sometime. The respondents 1 to 4 have either acquired the land or resumed assigned land in Ramachandrapuram village of Mallavaripalem East Panchayat for establishing IIT College. The respondents 1 to 4 while acquiring the assigned land assured to pay compensation at the rate of Rs.4,00,000/- per acre. The 6th respondent was working as Mandal Revenue Officer, who is impleaded in the writ petition both in his official and personal capacity, issued proceedings dated 30th March, 2015 recording for the subject land at Serial No.5 as petitioner died and recommended that exgratia be paid to petitioner's husband/5th respondent herein. The grievance of writ petitioner was brought to the notice of official respondents however, without result. On 20.05.2015, the writ petitioner represented to 1st and 2nd respondents on the alleged collusion or fraud in the matter of disbursement of compensation for subject land in favour of 5th respondent. In writ petition No. 20953 of 2015, the 2nd respondent was directed to dispose of representation dated 20.05.2015. The 2nd respondent issued endorsement Roc.G.2/1944/2014 dated 15.09.2016 and the operative portion reads thus:

“ As such, it is noticed that, it is a family dispute among the family members and she is not residing with her husband and left the village. Exgratia was paid to immediate legal heir of the assignee i.e., Sri V.Yesu. The petitioner has not turned up to the revenue authorities at any point of time for payment of exgratia and not in possession of the lands at any point of time. The payment was made through Bank to her husband and her husband has cleared the loan amounts pending due in the name of petitioner. As could be seen for the statements deposed by the revenue officials i.e., the then Revenue Divisional Officer, Tirupati, the then Tahsildars, Sathyaedu, the then Deputy Tahsildar, the Village Revenue Officer and the statement of gramasabha and the statement of daughter of the petitioner, it is in spite clear that the petitioner was not residing in the village. Since the lands are required for establishment of IIIT, the lands have to be taken for which exgratia need to be paid to the rightful farmer of the lands. As such the husband of the petitioner was granted exgratia.”

The writ prayer was amended vide order dated 27.01.2017 in W.P.M.P.No.52130 of 2016.

The case of 5th respondent in brief is that respondent Nos.6 to 9 have colluded and fabricated the record in such a way that the writ petitioner though is alive is treated as dead and exgratia payment was made to 5th respondent. The enquiry conducted by the 2nd respondent also discloses the collusive conduct of respondents 6 to 9 which resulted in disbursement of compensation to 5th respondent who is not entitled for receiving the compensation as long as the writ petitioner is alive.

Respondents have filed counter affidavit and have contested the writ prayer.

The learned counsel appearing for the parties do not dispute the correctness of statement of facts recorded in the order under appeal. Respondent Nos. 1 to 4 are concerned, the ground of challenge against the order impugned in the writ appeal is that the State is under obligation to pay exgratia/compensation once for acquiring or resuming assigned land. In the case on hand, from the details available on file, verification and the report furnished by respondent Nos. 6 to 9 exgratia/compensation was already paid to 5th respondent. Therefore, the State/respondents 1 to 4 is not under obligation to pay compensation once again to writ petitioner. The payment made to 5th respondent discharges the duty of the State. The further contention is that the writ petitioner admittedly is not residing in the village and the land is not under cultivation. On verification, subsequent to the representation filed by writ petitioner, it has come to the knowledge of respondents 3 and 4 that the writ petitioner stays at a distance about 12 kilometres from Ramachandrapuram Village, Mallavaripalem, Satyavedu Mandal. Therefore, the State or respondents 6 to 9 under bona fide impression have paid compensation to 5th respondent. The writ petitioner, according to them, has to work out her grievance in getting back the compensation from 5th respondent.

Mr.V.R.Reddy Kovvuri contends that ordering disciplinary enquiry has adversely affected respondents 6 to 9 and the record discloses that the decisions taken by respondents 6 to 9 are reasonable and conclusions arrived at are supported by the documents maintained in this behalf. According to him, the payment of compensation to 5th respondent is a trick conceived by

5th respondent in collusion with writ petitioner and therefore, the disciplinary enquiry ought not to have been ordered against respondents 6 to 9. The direction to pay costs by 1st respondent is equally unsustainable.

The limited grounds raised by the learned counsel for the appellants are replied by Mr. Sddhartha Sarma by contending that there is no dispute that the writ petitioner is the assignee. The field verification report prepared refers to writ petitioner as the assignee and on the statement made either by 5th respondent or villagers, the petitioner could not be treated as no more and exgratia is paid to 5th respondent. According to him, the fundamental mistake in straightaway accepting the 5th respondent as entitled to receive exgratia is that unless and until the 5th respondent is treated as a successor-in-interest of writ petitioner, respondents 6 to 9 ought not to have paid compensation to 5th respondent. According to him, the fabrication of record to pay compensation to 5th respondent is examined by the learned Single Judge and findings are recorded on the strength of material before the learned Single Judge. Therefore, the argument of appellants, if accepted, according to him, what is applicable as discharge with the payment in favour of 5th respondent can also be treated as payment and discharge of obligation of the State even if compensation is paid to a stranger. When it comes to resumption of land, the resumption order has nothing to do with the personal status or relationship between the petitioner and the 5th respondent. Unless and until it is shown that the writ petitioner is also a party to the fraud or collusion which encouraged respondents 6 to 9 to pay compensation to 5th

respondent the State is not exonerated. He places reliance on the endorsement of 2nd respondent dated 15.09.2016 to contend that at no stage it is found the writ petitioner is in any way responsible for payment of exgratia in favour of 5th respondent. Therefore, he prays for dismissing the appeals.

We have perused the record and noted the rival contentions put forward by the counsel appearing for parties.

The undisputed facts and circumstances are that the respondents 1 to 4 by accepting the status and eligibility of writ petitioner assigned subject land in her favour. It is not in dispute that the name of writ petitioner is recorded in the revenue records as well. Respondents 1 to 4 have either acquired land or resumed assigned land from assignees either by paying compensation or exgratia to the owners of private patta land or assigned land as the case may be. Therefore, to the process of acquiring or resuming land the status of writ petitioner is of an assignee. The dates clearly indicate that by referring to substituted service of notices the demise of writ petitioner is recorded. The fundamental mistake committed by respondents 1 to 4 is that even assuming without admitting that the 5th respondent has come forward with the statement that the writ petitioner is no more, the Board Standing Orders provide for recognizing person who is entitled to succeed to the estate of assignee as assignee, the proceedings are initiated to recognize the 5th respondent as assignee, thereafter, respondents 1 to 4 could have enquired into the fact of demise of writ petitioner, proceedings are issued for subject matter in favour of 5th respondent and thereafter the exgratia payment could have been

made in favour of 5th respondent. In the case on hand, as rightly recorded by the learned Judge in the order under appeal there are several gaps in the entire procedure followed by respondents 3 and 4 for denying compensation to writ petitioner and paying compensation or exgratia to 5th respondent. The non-payment of exgratia/compensation on one hand and denial of proprietary right without recourse to law has certainly violated the right of petitioner. This aspect of the case is considered in great detail by the order under appeal. The grounds now canvassed by the appellants for the above additional reasons are untenable and are accordingly rejected.

The learned Government Pleader for Assignment informs the Court that notices are issued to respondents 6 to 9 for disciplinary proceedings and the enquiry is pursued in accordance with the Rules. The appeals are dismissed without prejudice to the rights of respondents 6 to 9 to take available pleas in fact and in law in pending disciplinary proceedings. It is for the competent authority to enquire into and examine the disciplinary proceedings and take action in accordance with the record and law.

Writ appeals are dismissed with the above observations.

As a sequel thereto, miscellaneous petitions, if any, pending stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

S.V.BHATT, J

Date:17-09-2018

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