

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.33093 OF 2018

Date:12.12.2018

Between:

Chinthala Laxmi, W/o. Sreeramulu,
Aged 45 years, Occ: Agricultural
Labour, R/o. Tadoor, Cherial Mandal,
Warangal District, presently Siddipet
District and others

.. Petitioners

And

The State of Telangana, rep., by its
Principal Secretary, Revenue
Department, Secretariat,
Hyderabad and others

.. Respondents



The Court made the following:

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ORDER:

Heard.

2. This Writ Petition is filed praying to grant the following relief:

“... to issue a Writ one in the nature of a Writ of Mandamus or any other appropriate Writ, Direction or Order declaring the inaction of the 3rd respondent in not releasing the mortgage deeds/bonds of the lands of the petitioners decline to receive and accept the sale deeds presented by the petitioners in an extent of Ac.0.38 guntas each in Survey No.197 situated at Tadoor Village of Cherial Mandal, Siddipet District even in spite of the loans obtained by them for purchasing the said lands are waived off by the 1st respondent and consequently direct the 3rd respondent to forthwith release the mortgage deeds/bonds for the lands of the petitioners in an extent of Ac.0.38 guntas each in Survey No.197 situated at Tadoor Village of Cherial Mandal, Siddipet District by issuing clearance letters to Registering authorities i.e., respondent No.5 herein and pass such other order or orders as this Hon'ble Court may deem fit and proper in the interest of justice”.

3. When the matter is taken up, learned counsel for the petitioners and the learned Standing Counsel represented that the subject matter of this Writ Petition is covered by the earlier decision of this Court in W.P.No.24590 of 2015, dated 13.11.2015, followed in W.P.No.39019 of 2015. In W.P.No.24590 of 2015, the Court observed as under:

“One can understand the conduct of the respondents in retaining the mortgage deeds/bonds, if there are subsisting loans due by the petitioners. But once the loans of petitioners have been waived by the State, under Law, the respondents are not entitled to retain the mortgage deeds/bonds and such action, whatever be its laudable objective, violates Article 14 and 300-A of the Constitution of India. Since it is not disputed that petitioners are owners of the plots allotted to them,

any restraint on petitioners to sell the said lands would violate Section 11 of the Transfer of Property Act, 1882, and the petitioners are entitled to ignore any restraint on their right to alienate or encumber the land imposed by respondents. The respondents are also not entitled to retain the mortgage bonds/deeds executed by petitioners, since admittedly the loans of all petitioners have been waived by the Stage Government”.

4. Accordingly, the above writ petition was allowed and declared that the 3rd respondent therein was not entitled to withhold mortgage deeds/bonds of petitioners properties after the loans of petitioners have been waived by the 1st respondent. The Court further directed the 3rd respondent therein to release mortgage deeds/bonds to the petitioners by issuing clearance certificate to the 4th respondent.

5. Accordingly, the Writ Petition is allowed in terms of the earlier orders and declare that the 1st respondent is not entitled to withhold mortgage deeds/bonds of the petitioners properties after the loans of the petitioners were waived by the Government. The 3rd respondent/Executive Director, District Scheduled Castes Service Cooperative Society Limited, Warangal, is directed to forthwith release the mortgage deeds/bonds of the petitioners by issuing clearance certificate to the 5th respondent/Sub Registrar, Cherial, Siddipet District, if there is no other liability and the properties of the petitioners were mortgaged for the purpose of purchasing agricultural lands and for no other purpose. There shall be no order as to costs. Pending Miscellaneous Petitions, if any, shall stand closed.

P. NAVEEN RAO, J

Date:12.12.2018

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