

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.34391 OF 2017

Date: 19.12.2018

Between:

Regatte Srinivas Reddy, s/o. Anantha Reddy,
Aged about 41 years, occu: Business,
r/o. Housing Board Colony, Nalgonda town
and district.

.....Petitioner

and

The State of Telangana, rep.by its Prl.Secretary
(Revenue, JA & LA) Secretariat Buildings,
Tank Bund Road, Hyderabad and others.

.....Respondents



The Court made the following:

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.34391 OF 2017

ORDER:

Heard Sri K.Mahipathi Rao learned counsel for petitioner, learned Government Pleader for Land Acquisition (TG) for respondents 1 to 4 and Sri J.Prabhakar learned counsel for respondent no.5.

2. According to petitioner, land to an extent of Ac.5.00 in Sy.No.443 in Yellareddygudem village was assigned to Ex-Serviceman by name Mr. Singisala Saidulu. After his death his son by name Mr. Singisala Srinivasulu succeeded to the said property. On 05.10.2006, he executed agreement of sale-cum-GPA in favour of Smt. V.Sridevi. She executed registered sale deed in favour of petitioner on 17.4.2008 and was inducted into possession. In the year 2008, Government resumed Ac.59.23 of land earlier assigned for the purpose of constructing houses to weaker sections. Petitioner claims that he being the owner of this land, is entitled to ex-gratia/compensation to the extent of land in his possession and/or to provide alternate land. In the affidavit filed in support of the writ petition, petitioner avers of several representations made by him and correspondence of the officials recognizing his entitlement to receive compensation, determination of amount payable to him and recognizing the need to follow due procedure to acquire his land. Alleging inaction in paying compensation, this writ petition is filed.

3. According to counter averments of respondents, the then A.P. Housing Board placed requisition on 12.04.2007 to allot

Ac.59.23 of land for the purpose of construction of houses to urban middle class. The above extent of land was resumed and handed over the possession to the then A.P. Housing Board (now the Telangana Rajiv Swagruha Corporation Ltd - 4th respondent) on 04.02.2008. All the assignees, except land standing in the name of S.Saidulu, in issue in this writ petition, were paid ex-gratia at the rate of 99,000/- per acre. 5,92,020/- payable to land standing in the name of Mr. Saidulu was not received and is lying with 3rd respondent.

4. Two separate counter-affidavits are filed, one on behalf of 4th respondent and another on behalf of respondents 1 to 3 deposed by Revenue Divisional Officer, Nalgonda.

5. In the counter-affidavit deposed by the Revenue Divisional Officer, he supports the claim of petitioner for payment of compensation and also narrates various steps taken to determine compensation. In paragraph-5 at page no.3 of the affidavit he states, ***'the official respondents are ready to initiate the Land Acquisition Proceedings to acquire the lands of the writ petition under the provisions of 30 of 2013 Act'***. Further, ***'however, it is just and necessary to state that the respondent no.4 who is in possession of the property shall issue requisition and deposit the compensation amount with this authorities till such time the answering respondents cannot initiate the land acquisition proceedings to acquire the land of the writ petitioner and pay the compensation'***. In other words, these respondents are more than eager to pay

compensation to petitioner and shift the onus for delay in taking steps in that direction, on 4th respondent.

6. *Per contra*, according to 4th respondent, land allotted to it was Government land assigned to beneficiaries; it was resumed; and 4th respondent was vested possession on 04.02.2008. As per the prevailing market value, ex-gratia amount was determined; entire amount determined by competent authority was deposited by 4th respondent; and ex-gratia was paid to all assignees except Sri Saidulu. According to 4th respondent, once land was resumed and vested in the 4th respondent, assignee has no right to deal with the land. Deponent stated as under:

“Thus, it seems the claim of the writ petitioner is bad and also it seems, he had voluntarily purchased the land which is not in possession of either vendor or vendee as on 17.04.2008 that the land is acquired by the Government for the purpose of housing scheme. **Thus, it is hit by the doctrine of caveat emptor. Apart from the same, it seems the writ petitioner had successfully managed the concerned that he purchased the land and the compensation is to be paid to him. In fact the writ petition is to be dismissed on the ground of fraud and misrepresentation. The writ petitioner cannot be in possession as on 17.04.2008, by which date the land was already handed over to TRSCL.**”

xxx

“ I submit in view of the fraud played by the writ petitioner, the other proceedings obtained from the office of the respondents 2 and 3 is invalid. Any proceeding vitiated by fraud is liable to be set aside and it has no sanctity. Thus all the proceedings initiated by the respondents in favour of the writ petitioner are nothing but fraud”.

7. The above extracted averments are serious and warrant closer scrutiny.

8. It is apparent from facts on record that land was assigned to Mr. S.Saidulu, ex-serviceman. After his death, his son, Mr. S.Srinivasulu succeeded to the property. He claimed to have executed agreement of sale-cum-GPA on 05.10.2006. Requisition was placed by 4th respondent on 12.04.2007 to allot land for public purpose. Possession was handed over on 04.02.2008. Petitioner purchased land on 17.04.2008 and claimed that he was vested possession also on the said date.

9. As rightly contended by 4th respondent, by 17.04.2008 land was resumed, on resumption allotted to 4th respondent and possession was handed over to 4th respondent. By 04.02.2008 land no more belonged to assignee and no sale transaction could have been made after that date. Further, as on 12.04.2007, when requisition was placed; and as on 04.02.008 when possession vested in 4th respondent, it appears the status of land was assigned land; power to resume assigned land vested in the Government; in exercise of said power land was resumed; and resumption proceedings became final. On resumption, assignee is entitled to ex-gratia as per then prevailing system.

10. The stand of the Government insofar as the transaction made by the successor to the assignee alienating the assignment of land without obtaining No Objection Certificate from the competent authority gets vitiates said transaction is valid, since as reflected from their policy apparently NOC was not obtained. However, this issue need not be dwelled into further as the assignee has not

challenged the resumption and the petitioner before this Court claims that he purchased the land from the successor to assignee through General Power of Attorney on 17.4.2008, by which date land was already resumed and vested in the 4th respondent and no more belong to the assignee or subsequent purchaser. Therefore, the transaction claimed to have been made on 17.4.2008 is a sham transaction and is void abinitio. Based on the said transaction petitioner cannot claim compensation as if land ceased to be assigned land and validly vested in him.

11. Before parting with this case, it is appropriate to note, as rightly pointed out by the deponent to the counter affidavit filed on behalf of the 4th respondent, without examining the correct facts and apparently, deliberately the Revenue Divisional Officer and other officials of Revenue Department proposed to grant compensation and were more than eager to initiate proceedings under Land Acquisition Act (Act 30 of 2013). The basic facts are ignored brazenly only to stretch their hand to favour the petitioner. Apart from the fact that it was an assigned land, assigned land was resumed and ex-gratia amount was determined, proposals to grant compensation ignores the factum that land already vested in 4th respondent much before the alleged purchase made by petitioner and said sale transaction is void. These officers also ignore that resumption order became final. It appears, neither the assignee nor the subsequent purchaser questioned the said decision. Merely because ex-gratia determined is not received does not amount to challenging the decision to resume. Deeper enquiry is necessary to ascertain how such proposals were mooted to favour petitioner giving a fillip to petitioner's claim for huge amount of

compensation. The Principal Secretary to Government, Revenue Department (JA & LA), Telangana State is directed to examine the issue and submit report to the Registrar (Judicial), High Court of Judicature at Hyderabad, on or before 28.2.2018.

12. The Writ Petition is accordingly dismissed. Miscellaneous Petitions, if any pending stand dismissed.

JUSTICE P.NAVEEN RAO

Date: 19.12.2018

Kkm/tvk



HONOURABLE SRI JUSTICE P.NAVEEN RAO



WRIT PETITION NO.34391 OF 2017

Date: 19.12.2018

Kkm/tvk