

***THE HON'BLE SRI JUSTICE P.NAVEEN RAO***

**WRIT PETITION No.33205 of 2016**

**ORDER:**

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

“a) to declare the inaction of the third respondent in not releasing the mortgage deeds/bonds of petitioners lands to an extent of Ac.17-00 gts in the Sy.Nos. shown at (Annexure) located at Bahadurpet village, Aleru Mandal, Nalgonda District, even in spite of the loans obtained by petitioners for purchasing the said lands are waived off by the first respondent, as has been confirmed by the third respondent, as has been confirmed by the third respondent through their proceedings issued in the year 2010 and served on petitioners by the official of the third respondent as illegal, arbitrary, unjust apart from violative of principles of natural justice.

b) to consequently direct the third respondent to forthwith release the mortgage deeds/bonds of petitioners lands located at Bahadurpet village, Aleru Mandal, Nalgonda District by issuing clearance letters to Registering Authorities i.e. respondent No.4 herein.

c) and pass such order or orders as this Hon'ble Court may deemed fit and proper in the circumstances of the case”.

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 WP.No.24590 of 2015 dated 13.11.2015, followed in WP.No.39019 of 2015. In WP.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/deed executed by petitioners, since admittedly the loans of all petitioners have been waived by the State Government”.

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

According to the petitioners, petitioner Nos.24 and 25 are not entitled to the relief granted in the earlier common litigation. Accordingly, the Writ Petition is dismissed insofar as petitioner Nos.24 and 25 are concerned.

With reference to petitioners 1 to 23, the Writ Petition is allowed in terms of the earlier orders and declare that the 1<sup>st</sup> respondent is not entitled to with hold mortgage deeds/bonds of the petitioners' properties after the loans of the petitioners were waived by the Government. The 2<sup>nd</sup> respondent/Executive Director, District Scheduled Caste Service Cooperative Society Limited, Nalgonda, is directed to forthwith release the mortgage

deeds/bonds of the petitioners by issuing clearance certificate to the 4<sup>th</sup> respondent/Sub Registrar, Yadagirigutta, Nalgonda District. There shall be no order as to costs.

Miscellaneous Petitions, if any, filed in this Writ Petition shall stand closed.

**P.NAVEEN RAO, J**

**Date: 10/04/2018**

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