

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.44826 of 2017

ORDER:

Petitioner is Gopavaram Project Site Co-operative Joint Farming Society (for short 'the Society'), which was established in 1972 under the name of Badvel Taluq Land Development Society. It has 200 members.

2. An extent of Ac.1231.73 cents in Gopavaram village was handed over to the above Society on 13-11-1972 vide G.O.Ms.No.592 Revenue (O) for resettlement of 280 poor families on lease for a period of 99 years free of cost. Each member of the Society was allotted Ac.5.00 by the Society to develop and eke out their livelihood. Most of the members of the Society belong to the Scheduled Caste community.

3. In the year 2009, the State of Andhra Pradesh sent a requisition for acquisition of some of the lands admeasuring Ac.44.55 cents being cultivated by the members of the petitioner-Society for the purpose of Obulam branch canal of Telugu Ganga Project and for 3R, 4R and 5R minor canals. The details of the lands of the members of the petitioner-Society taken for the above purpose are set out in Ex.P-3 filed by the petitioner.

4. Members of the petitioner-Society contend that they are entitled for compensation under the Land Acquisition Act, 1894 in respect of the above lands resumed by respondents, but respondents have not taken any steps in that regard. It is further contended that they ought to be treated as assignees and as per the decision in **LAO-cum-Revenue Divisional Officer, Chevella Division, Domalguda, Hyderabad and others Vs. Mekala Pandu and others**¹ they are entitled to compensation equivalent to market value of the land and all other benefits payable to a land owner.

5. In the counter-affidavit filed by 3rd respondent, it was denied that the lands which were acquired for the purpose of Telugu Ganga project were not assigned lands. However after referring certain Govt. orders dealing with payment of amounts to assignees whose lands were taken for public purpose by the State such as G.O.Ms.No.180 Revenue (B) Department dt.09-02-1984, G.O.Ms.No.1307 Revenue Assignment (1) Department dt.23-12-1993, G.O.Ms.No.243, Revenue (Land Acquisition) Department dt.27-03-2010 and G.O.Ms.No.259 dt.21-06-2016 , a plea is taken that the lands in occupation of the members of the petitioner-Society are neither assigned lands nor encroached lands covered by the above Government orders and that petitioners are not assignees and cannot get any compensation.

¹ 2004(2) ALD 451 (LB)

6. It is asserted that lands allotted to members of petitioner-Society were allotted on lease of free of cost waiving Capital Fee (Security) for 99 years as per G.O.Ms.No.592 dt.02-06-1972, but the leaseholders were not paying the land revenue as mentioned in the said G.O. and as per Board Stand Order 15-A. It is asserted that digging of Telugu Ganga canal had benefited the members of the petitioner-Society as the ground water levels will increase and they would have sufficient water to cultivate their lands. It is therefore contended that petitioners are not eligible to receive any compensation for the said lands.

7. The respondents also referred to G.O.Ms.No.288 Revenue (Assn-I) Department dt.01-06-2018 stating that there is a proposal to wind up the defunct Co-operative Joint Farming Societies like the petitioner-Society and on such winding up, individual DKT pattas as per BSO-15 and assignment laws in the State would be issued.

8. Thus according to the respondents, the petitioners are not entitled to any compensation on par with assignees or land owners.

9. I have noted the contentions of both sides.

10. Admittedly, the petitioner is a Co-operative Society established in the year 1972 in the name of Badvel Taluq Land Development Society and its name was changed in 1985 to the present name.

11. It is admitted in the counter-affidavit of respondents that on 13-11-1972 vide G.O.Ms.No.592 dt.02-06-1972, an extent of Ac.1231.73 cents of Goparavam village was handed over to this Society for resettlement of 280 poor families on lease for a period of 99 years free of cost and that each of the members of the Society was given Ac.5.00 each.

12. Obviously in discharge of its constitutional obligation to cater to the needs of the landless poor and for their upliftment, the above G.O. was issued. Admittedly, the land was assigned on free of cost and no capital fee (Security) was collected for the lands. This is a commendable attempt by the State Government in favour of the weaker sections of the Society to uplift them, empower them and is part of a design to bring about the socio-economic revolution in furtherance of the State's policy to secure to citizens an adequate means of livelihood. This secures to vulnerable sections of the society a life of basic human dignity and is in compliance with Directive principles of the State policy.

13. The fact that the lease to the Society was granted for 99 years and for 47 years after the initial allotment in 1972 till 2009, members of the petitioner-Society were allowed to enjoy this land without paying any rent, indicates that the State took a compassionate view about the economic conditions of the members of the petitioner-Society.

14. In my considered opinion, the status of the members of the petitioner-Society is thus akin to assignees of lands, who are also not required to pay rents and who can enjoy the same without powers of alienation. The corporate veil of the Society is to be lifted and the grant to the Society is to be construed as a grant to the petitioners individually of the extents of Ac.5.00 each.

15. The State cannot take advantage of the fact that the enjoyment of petitioners is not by virtue of a deed of assignment and deprive them the benefits of compensation equivalent to market value of the land and other benefits payable to a regular owner of land, when they are deprived of said land for public purpose by the State. The policy designed to protect socio-economic status of the vulnerable class of citizens who are admittedly poor farmers, cannot be allowed to be defeated in this manner.

16. Therefore, the decision in **Mekala Pandu** (1 supra) that the assignees of Government lands are entitled to payment of compensation equivalent to full market value and other benefits on par with the full owners of the land even in case where the assigned lands are taken possession of by the State in regard to the terms of the grant or patta and though such resumption is for public purpose, is attracted and the petitioners are entitled to the same. The rationale for grant of above benefit to assignees of land would also equally apply to the petitioners.

17. Therefore, I reject the stand of the respondents that since members of the petitioner-Society are not assigned the land under pattas granted by the State, they are not entitled to compensation.

18. Accordingly, the Writ Petition is allowed and respondents are directed to treat the members of the petitioner-Society, who have been deprived of their lands for the Telugu Ganga project in the year 2009, as assignees and grant them market value compensation and other benefits which a land owner would be entitled to if his lands were to acquire for public purpose, and determine compensation payable to them as on the date of resumption of the land, in accordance with the Land Acquisition Act, 1894 and also pay them solatium and interest payable under the said statute within a period of four (04) months from the date of receipt of a copy of this order. No costs.

19. As a sequel, miscellaneous applications pending, if any, in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 10-10-2018
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