

THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

Writ Petition No.21515 of 2007

ORDER:

The present writ petition is filed seeking a Writ of Mandamus *directing the respondents to re-assign/re-convey the land or grant patta in favour of the petitioners for the land to an extent of Acs.4.15 gts. in Sy.No.110, Acs.24.34 gts. in Sy.No.106, Acs.12.34 gts. in Sy.No.125, Acs.7.22 gts. in Sy.No.124, Ac.10.00 gts. in Sy.No.55, Acs.17.00 gts. in Sy.No.56 (from whom it was acquired or their legal heirs or successors-in-interest) even without making an application from them, on condition of refund the compensation received by them as per Section 54-A of the A.P. (Telangana Area) Land Revenue Act, 1317 F and as per the ratio laid down in 1999 (5) ALT 202 (D.B.).*

2) The brief facts of the case are that the petitioners, who claim to be the owners of different parcels of land situated in Sy.Nos.110, 106, 125, 124, 55 and 56 of Raikod Mandal, Medak District, have filed the present writ petition on the premise that the then Government of Andhra Pradesh had acquired the land admeasuring Acs.600.00 situated in various Villages including the lands of the petitioners for the purpose of Bogulampally Project. The Government after following the due procedure, as contemplated under the Land Acquisition Act, 1894, has passed the Awards and paid compensation. It is the further case of the petitioners that though the lands were acquired for the purpose of Bogulampally Project, subsequently, the lands which were sought to be irrigated under the said Project, have come under the Singoor

Project and as a result of which, the purpose for which the lands of the petitioners were acquired initially has been defeated and the lands are no longer been used for the purpose for which they were acquired. Thereby, they have come up with the present Writ Petition seeking re-conveyance of the lands, which were acquired, and are relying on the judgments of the Division Bench of this Court reported in **GOVT. OF A.P., REVENUE DEPT., v. SYED AKBAR**¹.

3) The respondents have filed their counter, mainly contending that the land acquisition has taken place in the year 1966 and full compensation was paid to the petitioners. The prayer for re-conveyance of lands, after lapse of four decades, cannot be granted. Even if the lands are not used for the original public purpose for which they were acquired, they can be used for other public purposes. Further, having received the compensation long back, the petitioners cannot now seek to re-convey the lands which were acquired, at this point of time.

4) Heard Sri K.Raji Reddy, the learned Counsel appearing for the petitioners, and the learned Government Pleader for Land Acquisition and the learned Government Pleader for Irrigation and Command Area Development, appearing for the respondents.

5) The contention of the learned Counsel for the petitioners is that the lands which were acquired from the petitioners are not been used for the purpose for which they were initially acquired and as such, Mandamus can be issued to re-assign the lands in view of the law laid down by this Court in **SYED AKBAR (1 supra)**.

¹ 1999 (5) ALT 202 (D.B.)

6) Per contra, the learned Government Pleader for Land Acquisition has mainly contended that the representation made by the petitioners seeking to re-assign the lands was already disposed of *vide* Lr.No.G1/1918/05, dated 18.06.2009, rejecting their request and the same has been intimated to the petitioners also. He further submits that after a gap of more than four decades, the request of the petitioners cannot be acceded to, more particularly when the petitioners have received the entire compensation. In support of his case, he relied upon the decisions of the Hon'ble Supreme Court reported in **GOVT. OF A.P., REVENUE DEPT., v. SYED AKBAR²** and **TOPARA RAJENDER v. GOVERNMENT OF ANDHRA PRADESH³**.

7) In **SYED AKBAR (2 supra)**, the Hon'ble Supreme Court observed as under:-

In State of Kerala and Ors. v. M. Bhaskaran Pillai and Anr. (AIR 1997 SC 2703), para 4 of the said judgment reads:-

"4. In view of the admitted position that the land in question was acquired under the Land Acquisition Act, 1894 by operation of Section 16 of the Land Acquisition Act, it stood vested in the State free from all encumbrances. The question emerges whether the Government can assign the land to the erstwhile owners? It is settled law that if the land is acquired for a public purpose, after the public purpose was achieved, the rest of the land could be used for any other public purpose. In case there is not other public purpose for which the land is needed, then instead of disposal by way of sale to the erstwhile owner, the land should be put to public auction and the amount fetched in the public auction can be better utilised for the public purpose envisaged in the Directive Principles of the Constitution. In the present case, what we find is that the executive order is not in consonance with the provision of the Act and is, therefore, invalid. Under these circumstances, the Division Bench is well justified in declaring the executive order as invalid. Whatever assignment is

² (2005) 1 SCC 558

³ 2012 (2) ALD 222 (DB)

made, should be for a public purpose. Otherwise, the land of the Government should be sold only through the public auctions so that the public also gets benefited by getting a higher value."

In the case *Chandragauda Ramgonda Patil and Anr. v. State of Maharashtra and Ors.* [(1996) 6 SCC 405], claim of the petitioner for restitution of the possession of the land acquired pursuant to the resolution of the State Government was rejected. In para 2, this Court observed thus:-

"2..... We do not think that this Court would be justified in making direction for restitution of the land to the erstwhile owners when the land was taken way back and vested in the Municipality free from all encumbrances. We are not concerned with the validity of the notification in either of the writ petitions. It is axiomatic that the land acquired for a public purpose would be utilized for any other public purpose, though use of it was intended for the original public purpose. It is not intended that any land which remained unutilized, should be restituted to the erstwhile owner to whom adequate compensation was paid according to the market value as on the date of the notification. Under these circumstances, the High Court was well justified in refusing to grant relief in both the writ petitions."

When the land is acquired under the Land Acquisition Act which is vested in the State Government free from all encumbrances, the question of reconveying the land as claimed by the respondent could not be accepted in view of the clear position of law stated in the decisions of this Court aforementioned. Whether the unused remaining land out of the acquired land was sufficient or not for the purpose of construction of Mandal Revenue Office could not be decided by the High Court. It was for the competent authorities to decide about the same".

8) In **TOPARA RAJENDER (3 supra)**, a Division Bench of this Court while dealing with a case of re-conveyance of the land on the basis of an Executive order has set aside the same holding as follows:

"Following the view laid down by the Supreme Court, we find that the actions of the official respondents suffer from two vices: First of all, there is a defect in re-conveyance of the acquired land inasmuch as it has been achieved

through an executive order, which is not permissible and the basis for re-conveyance is the opinion rendered by the project authorities and the Chief Engineer which is also not permissible. Secondly, since possession of the land has been taken by the District Collector and the acquired land has vested absolutely in the government free from all encumbrances, re-conveyance cannot be made as a matter of course, as has been done in the present case.”

9) The basis on which the present Writ Petition is filed is the Judgment of this High Court reported in **SYED AKBAR (1 supra)**. But, the Hon’ble Supreme Court has reversed the decision of this Court in **SYED AKBAR (1 supra)** in the subsequent Judgment of **Govt. of A.P., Revenue Department Vs. Syed Akar (2 supra)**. Therefore, the decision relied by the petitioners, which forms the basis for filing the present writ petition, has no relevance in deciding the present case.

10) In view of the above facts and circumstances of the case, there are no merits in the present Writ Petition and the same is accordingly dismissed. However, if the petitioners are so advised, they are free to challenge the rejection of their representation and subsequent communication made vide Lr.No.G1/1918/05, dated 18.06.2009, in accordance with law.

The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.ABHISHEK REDDY, J

Date : 06-12-2019.
smr