

HONOURABLE SRI JUSTICE M.S. RAMACHANDRA RAO

AND

HONOURABLE SRI JUSTICE T. VINOD KUMAR

WRIT PETITION No.6898 OF 2019

ORDER: (Per MSR,J)

This Writ Petition has been filed by the petitioners challenging G.O. Ms. No.113 dated 01.06.2016 issued by the State of Telangana, represented by its Principal Secretary, Revenue (Land Matters) Department, Secretariat, Hyderabad (1st respondent) in not making any provision for disposal of L.G.O.Ps. filed prior to 01.06.2016 and pending without cognizance being taken, as on that date, on the file of Special Courts and Special Tribunals as illegal, arbitrary, *mala fide* and violative of Article 14 of the Constitution of India, to set aside the order dated 20.07.2018 in L.G. (S.R.) No.845 of 2011 on the file of the Principal District Judge, Khammam, and to direct the said Court to dispose of the said L.G. (S.R.) in terms of the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982.

2. The petitioners had presented the aforesaid L.G.O.P. before the Principal District Judge at Khammam under Sub-Section (1) of Section 8 of the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982, alleging that respondent Nos.2 to 11 are land grabbers, that they should be prosecuted and punished for committing an act of land grabbing under the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982, and they should be evicted from the application schedule land

and possession of the same be delivered to the petitioners. Damages of Rs.50,00,000/- were also sought.

3. Though the said L.G.O.P. was filed in March, 2014, cognizance was not taken of the same and it remained pending at pre-cognizance stage.

4. In the meantime, G.O. Ms. No.113 Revenue (Land Matters) Department dated 01.06.2016 was issued by the Government of Telangana State repealing the statute, but saving only all cases of 'post-cognizance' which were pending before the Special Courts and Special Tribunals and transferring the same to the Court of Chief Judge, City Civil Court, Hyderabad or the Principal District Judges of the respective District Courts and directing the said cases to be tried and disposed as L.G.O.Ps. in terms of the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982. The said provision is as under:

“2. The Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 in its application to the State of Telangana is hereby repealed, save as otherwise provided hereunder:

(i) All cases of post cognizance pending before the Special Court and Special Tribunals shall stand transferred to the Courts of Chief Judge, City Civil Court, Hyderabad or Principal District Judges of the respective District Courts, and the said cases shall be tried and disposed of as LGOP in terms of A.P. Act, 12/1982.

(ii) All appeals pending before the Special Court shall stand transferred to the High Court of judicature at Hyderabad, and the said cases shall be heard and disposed of as L.G. Appeals in terms of AP Act, 12/1982.

(iii) Any case remanded by the High Court or the Supreme Court of India arising out of orders or Judgments passed under the AP Act, 12/1982, to the Special Courts/Special Tribunals, shall be dealt with by the Courts of Chief Judge, City Civil Court, Hyderabad or District Judges of the respective District Courts, as the case may be under the provisions of AP Act, 12/1982.

(iv) Any case remanded by the Supreme Court arising out of judgment or order passed under the AP Act, 12/1982, shall be disposed of by the High Court in terms of A.P. Act, 12/1982.

(v) The personnel working under the control of the Special Court shall be transferred by way of accommodation in any office or authority as the Government of Telangana may decide, by appropriate order.

(vi) Notwithstanding any Rule, Judgment, decree or order of any Court:-

The Judgment, decree or order passed under the AP Act 12/1982, which remain unimplemented for any reasons, or pending before any Court for execution as on the date of Repealing Order, shall stand transferred to respective Civil Courts having jurisdiction for its execution in terms of the provisions of Code of Civil Procedure, 1908.”

5. There was no provision made in G.O. Ms. No.113 dated 01.06.2016 dealing with the fate of the cases filed before 01.06.2016 which had not been taken cognizance thereof before the said date.

6. Therefore, on 20.07.2018 in L.G. (S.R.) No.845 of 2014, the Court below passed the following docket order:

“Since the cognizance was not taken by the date of repeal of land grabbing prohibition act, the petition is rejected with a liberty to file appropriate proceedings in the appropriate time.”

7. It is the contention of the learned counsel for the petitioners that the petitioners were not at fault for failure of the Special Court at Khammam, at that point of time, to take cognizance of the L.G.(S.R.) filed by them before 01.06.2016, and the State cannot, by issuing the aforesaid G.O. nullify the remedy available to the petitioners by not making any provision for taking cognizance of the L.G.O.Ps. filed before 01.06.2016.

8. After 01.06.2016, notice was issued to the respondents. The 1st respondent has filed counter affidavit stating as under:

“11. It is respectfully submitted that after issuance of G.O.Ms.No.113, the Registrar, Special Court under A.P. Land Grabbing (Prohibition) Act, Hyderabad has addressed letter vide Lr.Dis.No.275/16/Regr/Estt/SC dated 4-7-2016 seeking clarification regarding pre-cognizance cases. The Government after examining the issue, have issued Lr.No.14983/LM/A1/2016 dated:17-11-2016 which runs as under:

A). “.....the pending pre cognizance cases/disposal cases of the Special Court under Andhra Pradesh Land Grabbing (Prohibition) Act, Hyderabad may also be transferred with the permission of the Hon’ble High Court to the respective Tribunals i.e. the District Court of 10 districts of Telangana State”.

12. It is respectfully submitted that after issuance of the above letter, the Registrar, Special Court have sought clarification from the Hon’ble High Court and the Hon’ble High Court has given permission vide letter Roc.2236/SO/2016 dated 19-08-2016 and 3110.2016. Among others, the extract relevant runs as under:

B. To transfer all LGCSRs and taken up cases relating to state of Andhra Pradesh that are pending for taking cognizance in the Special Court to the Principal District Judges of the respective District Courts in the State of Andhra Pradesh for trial and disposal of the said cases in terms of Act 12 of 1982.”

9. It is therefore clear from the counter of the 1st respondent that even the cases, which were filed before 01.06.2016 where cognizance had not been taken by the Special Court, can be transferred, and be taken up by the Principal District Judges of the respective District Courts for trial and disposal in terms of the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982, in view of the clarifications issued on 17.11.2016 by the 1st respondent as well as the clarifications issued by this Court on 19.08.2016 and 31.10.2016

10. Sri M.V.S. Suresh Kumar, learned senior counsel appearing for respondent Nos.9 and 10, Sri Y. Venu Gopal, learned counsel appearing for respondent Nos.5, 6 and 7 and Ms. M. Bhagyasree, learned counsel appearing for respondent No.11, also support the aforesaid course of action.

11. Though respondent Nos.2, 3, 4 and 8 have also been served, there is no representation on their behalf.

12. In view of the aforesaid reasons and having regard to the clarifications issued by the State Government on 17.11.2016 and by this Court on 19.08.2016 and 31.10.2016, the order dated 20.07.2018 in L.G. (S.R.) No.845 of 2014 passed by the Principal District Judge, Khammam on 20.07.2018 is set aside, and the said Court is directed to number the said L.G. (S.R.) filed by the petitioners and dispose it of in accordance with the provisions of the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982. The Writ Petition is accordingly ordered. No order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the writ petition stand closed.

M.S. RAMACHANDRA RAO, J

T. VINOD KUMAR, J

September 16, 2019.

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