

**HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**I.A.NO.1 OF 2019 IN W.P.NO.40677 OF 2017,**

**WRIT PETITION NO.40677 OF 2017 AND**

**CONTEMPT CASE NO.858 OF 2019**

**C O M M O N   O R D E R**

The petitioner in this Writ Petition is an Ex-Serviceman. He worked in Army from 17.08.1985 to 30.11.2001 and served in various stations including Jaipur, IPKF in Sri Lanka, Jammu & Kashmir, Punjab and Assam. According to him, he was considered for assignment of land under Ex-Serviceman quota.

2. However, the erstwhile State of Andhra Pradesh through the 4<sup>th</sup> respondent had issued an Assignment Patta *vide* Letter No.B/288/2010 dt.12.05.2010, not under the Government G.O. dealing with Ex-Servicemen assignments, but as per Laoni Patta Rules contained in G.O.Ms.1406 dt.27.06.1958 and assigned to him an extent of Ac.4.00 of dry land in Sy.No.55 of Kummarapally Village, Dharur Mandal.

3. Sadly, possession of the said land was never given to the petitioner though he was issued a pattadar passbook and title deed, both of which have been filed in the Writ Petition.

4. Since the petitioner failed in his requests to the respondents to survey and deliver possession of the land assigned to him, he gave representations dt.12.09.2013 and 20.11.2014 to the 4<sup>th</sup> respondent to deliver possession of the land.

5. Ultimately, Letter No.B/764/2015 dt.10.09.2015 was addressed by the 4<sup>th</sup> respondent to the 2<sup>nd</sup> respondent referring to the petitioner's request and stating that though he was allotted land under the Ex-Serviceman quota on 12.05.2010, the petitioner did not take possession and cultivate it for three years, that he had violated the assignment rules and so action should be initiated against him in violation of the assignment rules. A copy of this order was marked to the petitioner, which the petitioner claims to have received on 09.11.2017.

6. Therefore, the petitioner filed the instant Writ Petition to declare the said proceedings issued by the 4<sup>th</sup> respondent as arbitrary, illegal and to direct the respondents to hand over possession of the same to him.

7. An interim order was passed by this Court on 15.12.2017 in W.P.M.P.No.50501 of 2017 to the following effect:

*"Heard the counsel for the petitioner, and the learned Government Pleader for Revenue for respondents.*

*The petitioner is an ex-serviceman to whom an assignment patta was granted by the 4<sup>th</sup> respondent on 12.05.2010 and even pattadar pass book and title deed were issued to him, but possession of the land was not given to him.*

*When the petitioner sought for delivery of possession of the subject land, the 4<sup>th</sup> respondent passed the impugned order stating that though petitioner was allotted the land under ex-serviceman quota in 2010 he did not take possession and cultivate it within three years and violated the assignment rules.*

*On 05.12.2017, this Court directed the learned Government Pleader for Revenue to obtain instructions as to why possession of the land was not delivered to petitioner.*

*Now, the learned Government Pleader for Revenue states on instructions that the file relating to assignment is not available.*

*How a file which was available on 10.09.2015 disappeared by 15.12.2017, is not explained.*

*Therefore, the impugned proceedings are suspended. The 4<sup>th</sup> respondent is directed to hand over the possession of the subject land to petitioner forthwith."*

8. When no possession was handed over to the petitioner of the land assigned to him, the petitioner filed C.C.No.858 of 2019 impleading the 4<sup>th</sup> respondent. Subsequently, this Court impleaded the District Collector, Vikarabad District and also the Revenue Divisional Officer, Vikarabad.

9. In the meantime, I.A.No.1 of 2019 was filed to vacate the said order in November, 2019 by the 4<sup>th</sup> respondent. It is stated in the counter-affidavit that the assignment was granted by the Tahsildar not in the Ex-Serviceman quota but as per the revised assignment policy in G.O.Ms.No.1406 dt.27.06.1958 as landless poor man and that the Patta Certificate itself does not mention that it was granted under Ex-Serviceman quota.

10. But nowhere have the respondents denied that the petitioner is an Ex-Serviceman and that there are Government Orders in force, which permit assignment of land to Ex-Servicemen, such as G.O.Ms.No.743, Revenue (B) Department, dt.30.04.1963.

11. Next, it is contended in the counter-affidavit that Sy.No.55 has adjacent to it Sy.Nos.65 and 67 to 71, and pursuant to the proposal of the Irrigation Department made in 1997, a new tank as a minor irrigation source was created in Sy.Nos.65 and 67 to 71, lands in which were acquired and which are adjacent to Sy.No.55 by initiating proceedings under the Land Acquisition Act, 1894 and an Award was passed on 30.11.2000. It is stated that a tank was constructed called Kotha Cheruvu in said Survey Numbers.

12. However, it is admitted that the entries in relation to Sy.Nos.65 and 67 to 71 were not amended in the revenue record. But, it is contended that the land in Sy.No.56 forms part of FTL of above tank and abutting land in Sy.No.55 is part of Shikam.

13. No revenue record was filed by the respondents to show that the land in Sy.No.55 has been classified as Shikam in the revenue records till date though 20 years have elapsed since formation of Kotha Cheruvu tank. So the said plea also has no merit.

14. Reliance is placed on Memo No.B/533/2014 dt.18.09.2014 of the 4<sup>th</sup> respondent stating that the land assigned to the petitioner is Shikam land. But since there is no revenue record to support the said stand, the said Memo of the 4<sup>th</sup> respondent cannot be accepted.

15. The petitioner has filed in the Contempt Case Letter No.B1/1450/2017 dt.02.08.2018 of the 4<sup>th</sup> respondent addressed to the Revenue Divisional Officer, Vikarabad Division stating that Sy.No.55 is classified as Shikam land as per Village Map and it is not

permissible for allotment, and proposing an extent of Ac.3.00 in Sy.No.21 of the same Village for assignment to the petitioner. It is also stated therein that some portion of the land in Sy.No.55 admeasuring Ac.4.00 was illegally encroached by Scheduled Tribe farmers for more than 70 years.

16. It is most unfortunate that the State of Telangana treats Ex-Servicemen so shabbily by denying them assignment in spite of the Government policy providing for such assignment in G.O.Ms.No.743, Revenue (B) Department, dt.30.04.1963. Having assigned the land to an Ex-Serviceman like the petitioner, the officials of the State like respondents do not deliver possession of the land to the petitioner for almost 10 years; then seek to take action against the petitioner for alleged non-cultivation of the said assigned land which was never delivered possession to him by Revenue Authorities; and refuse to allot alternate land to the petitioner and insist on contesting the matter on merits. This attitude of the respondents has to be deemed to be arbitrary, litigious and cantankerous to say the least.

17. When there is no revenue record to show that the land in Sy.No.55 is Shikam land or tank bed land, on the basis of a Village Map, the respondents cannot contend that the land which was assigned to the petitioner is tank bed land and he cannot be delivered possession of the same. In fact, the plea that it is tank bed land is not even mentioned in the impugned order dt.10.09.2015 passed by the 4<sup>th</sup> respondent but is introduced for the first time in the counter-affidavit.

**W.P.No.40677 of 2017 and I.A.No.1 of 2019 filed therein:**

18. In this view of the matter, the Writ Petition is allowed. The impugned order dt.10.09.2015 of the 4<sup>th</sup> respondent is set aside and respondents 2 to 4 are directed to forthwith deliver possession of the land assigned to the petitioner of Ac.4.00 in Sy.No.55 of Kummarpally Village, Dharur Mandal. The 1<sup>st</sup> respondent shall also pay costs of Rs.25,000/- (Rupees twenty five thousand only) to the petitioner. Pending miscellaneous petitions, if any, shall stand closed.

19. Consequently, vacate stay petition I.A.No.1 of 2019 in W.P.No.40677 of 2017 is dismissed.

**C.C.No.858 of 2019:**

20. In the Contempt Case, the petitioner is alleging that the order dt.15.12.2017 in W.P.M.P.No.50501 of 2017 in W.P.No.40677 of 2017 is not implemented.

21. Since the vacate stay petition has now been decided, I do not wish to impose any punishment on the respondents in not implementing the said order, but the 1<sup>st</sup> respondent shall personally pay costs of Rs.20,000/- (Rupees twenty thousand only) to the petitioner.

22. Accordingly, the Contempt Case is allowed.

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**M.S.RAMACHANDRA RAO, J**

**14<sup>th</sup> FEBRUARY, 2020**

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