

THE HON'BLE SRI JUSTICE K.SARATH

WRIT PETITION No.23173 of 2007

ORDER:

This Writ petition is filed seeking the following relief:

“...to issue a writ, order or direction, more in nature of Writ Mandamus declaring the action of the respondent No.2 in addressing letter in CCLA's Lr.No.BB3/1069/06 dated 01.02.2007 dated 01.02.2007 to the respondent No.1 rejecting application filed by the petitioner for assignment of the land admeasuring Ac.5.00 in Sy.No.312 of Sodizapally village, Dharmasagar Mandal, Warangal District, as illegal, unconstitutional and violative of Article 14 and 16 of the Constitution of India.....”

2. Heard Sri M.Madhav Reddy, Learned Counsel appearing for the petitioner and the learned Government Pleader for Revenue appearing for respondents.

3. The Learned Counsel for the petitioners submits that the deceased-petitioner No.1 was an Ex-Service Man and he was retired from service on 21.04.1969. The deceased-petitioner No.1 was eligible for 5 acres of dry or 2 acres of wet land from the Government. The deceased-petitioner No.1 made an application to the Tahsildar, Janagon immediately after his retirement seeking for assignment of land admeasuring 5 acres in Sy.No.180 of Rangapur village of Janagaon Taluq. The application of the deceased-petitioner No.1 was not considered for a long time. The Tahsildar, Janagaon addressed a letter to the deceased-petitioner No.1 in Memo No.A2/729/75 dated 25.07.1975 stating that the land so opted by the deceased-petitioner No.1 was selected for Joint Cooperative Forming Society and asked the deceased-petitioner No.1 to select some other land. Thereafter the deceased-petitioner No.1 found land in Sy.No.310 and 312 of Sodizapally village

of Dharmasagr Mandal and accordingly made an application to the 4th respondent for assignment of land. Thereafter the 4th respondent addressed a letter in Rc.No.D/6287/1999 dated 09.01.2001 to the 5th respondent directing to take necessary steps to make assignment of land and after due process of law, assigned the land to the deceased-petitioner No.1 and delivered possession of the same on 10.12.2003 by drawing panchanama which was signed by the Sarpanch of Gram Panchayath and Village Administrative Officer (VAO) of Sodizapally of Gram Panchayath.

4. The learned Counsel for the petitioners further submits that after delivery possession of the land the 3rd respondent addressed a letter to the 4th respondent in letter No.E1/3492/2005 dated 15.09.2005 seeking clarification for assignment of land to 18 applicants

recommended by the Zilla Sainik Welfare Officer, Warangal. Thereafter the 2nd respondent addressed letter in CCLA Lr.No.BB3/1069/06 dated 01.02.2007 to the 1st respondent informing that as per Rule 8 of G.O.Ms.No.743 dated 30.04.1963 regarding assignment of agricultural land to armed forces, the applications shall be made within 12 months from the date of discharge from service and in this case the deceased-petitioner No.1 made application with inordinate delay and stated that the application of the deceased-petitioner No.1 is liable to be rejected. Under the guise of said letter the respondents are trying to evict the deceased-petitioner No.1 from the subject land and in view of the same the deceased-petitioner No.1 filed present writ petition and this court granted interim orders on 02.11.2007 directing the respondents not to dispossess the

deceased-petitioner No.1 from the subject land, and requested to pass appropriate orders.

5. The Learned Government Pleader for Revenue, basing on the counter, submits that as per Rule-8 of G.O.Ms.No.743 dated 30.04.1963 the deceased-petitioner No.1 is not eligible for assignment of land and therefore rejected the claim of the deceased-1st petitioner. The learned Government Pleader further submits that before passing any order basing on the letter of the 2nd respondent dated 01.11.2007 this writ petition is filed, and in view of that the writ petition is liable to be dismissed as premature in nature.

6. After hearing both sides, this court is of the considered view that the deceased-petitioner No.1 was an Ex-Service Man, retired from Defence Services. The respondents in the counter did not deny the

contents of the writ petition that immediately after his retirement the deceased-petitioner No.1 made application for allotment of land. The Tahsildar, Janagon issued letter on 25.7.1975 asking the deceased- petitioner No.1 to select some other land and the respondents are also not denying assignment proceedings issued by the then Tahsildar, Darmasagaram and handing over the land to the deceased-petitioner No.1 in Sy.No.312 of Sodizapalli Village under the cover of panchanama. Thereafter, without any notice to the deceased-petitioner No.1 there was internal correspondence between the 2nd and 1st respondent, rejecting the claim of the deceased-petitioner No1 on the ground that as per Rule No.8 of G.O.Ms.No.743 dated 30.04.1963 the deceased-petitioner No.1 has not made application within 12 months from the date of discharge of service. In fact, record reveals that the deceased-petitioner No.1 made

application to the concerned authorities immediately after discharge from service for assignment of land, and thereafter the Tahsildar, Janagaon asked the deceased-petitioner No.1 vide Memo No.A2/720/75 dated 25.07.1975 to opt another land in place of land in Sy.No.180 of Rangapoor village as the land in said survey number is selected for Joint Cooperative Forming Society. Thereafter, the respondent-authorities have allotted the land to the deceased-petitioner No.1 in Sy.No.312 of Sodizapally of Darmasagar Mandal to an extent of 5 acres on 10.12.2003 after following due process of law. The respondents, cannot reject the claim of the deceased-petitioner No.1 basing on the Rule-8 of G.O.Ms.No.743 dated 30.04.1963.

7. In view of the same, the writ petition is disposed of setting aside the impugned letter No.CCLA's

Lr.No.BB3/1069/06, dated 01.02.2007 issued by the respondent No.2 and directing the respondents not to interfere with the possession of the legal heirs of the deceased-petitioner No.1 in the subject land to an extent of 5 acres in Sy.No.312 of Sodizapally village, Darmasagar Mandal, Warangal District, without following due process of law.

8. Accordingly, with the above direction, this writ petition is disposed of. No order as to costs.

9. Miscellaneous Petitions pending, if any, shall stand closed.

JUSTICE K.SARATH,

Date: 31.01.2023
trr