

**HIGH COURT FOR THE STATE OF TELANGANA  
AT HYDERABAD  
(Special Original Jurisdiction)**

THURSDAY, THE SECOND DAY OF NOVEMBER  
TWO THOUSAND AND TWENTY THREE

**PRESENT**

**THE HONOURABLE SRI JUSTICE B.VIJAYSEN REDDY**

**WRIT PETITION NO: 10650 OF 2015**

**Between:**

1. Lakkapragada Purnachandra Rao, S/o. late L.V.S.Sharma, Aged about 58 years, Occ Govt. Employee, R/o. Plot No.158/B, H.No.11-13-232, Alkapuri Colony, Saroonagar, R.R.District.
2. Daliparthi Sudhakar, S/o.late D.Subba Rao, Aged about 58 years, Occ Govt. Employee, R/o. Plot No.158/A, H.No.11-13-231, Alkapuri Colony, Saroonagar, R.R.District.

**...PETITIONERS**

**AND**

1. State of Telangana, Rep.by its Principal Secretary - Revenue, Secretariat, Hyderabad.
2. Urban Land Ceiling Authority, Rep.by its Special Officer and Competent Authority, Nampally, Hyderabad.
3. The Deputy Collector & Tahsildar, Saroonagar Mandal, R.R.District.

**...RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ of Mandamus, or any other appropriate writ, order or direction, declaring the Notice Proceedings No.B/05/2015, dated 25.1.2015, issued by the 3rd Respondent calling upon the Petitioners to get regularized the property to the extent of 418.06 Sq.mtrs, Plot No.158, Sy.No.9, Saroonagar, R.R.District, under GO.Ms.Nos.58 and 59, dated 30.12.2014, though the same is not saved under the Urban Land Ceiling Repealing Act as illegal, arbitrary and without jurisdiction and set aside the same.

**I.A. NO: 1 OF 2015(WPMP. NO: 14089 OF 2015)**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant interim stay of all further proceedings pursuant to the Notice Proceedings No .B/05/2015, dated 25.1.2015, issued by the 3rd respondent calling upon the Petitioners to get regularized the property to the extent of 418.06 Sq. mtrs, Plot No.158, Sy.No.9, Saroornagar, R.R. District under G.O.Ms.No.58 & 59, dated 30.12.2014, Pending disposal of the writ petition.

**Counsel for the Petitioners: SRI LINGAMPELLY RAVINDER**

**Counsel for the Respondents: GP FOR ASSIGNMENT**

**The Court made the following: ORDER**

**THE HON'BLE SRI JUSTICE B. VIJAYSEN REDDY**

**WRIT PETITION No.10650 of 2015**

**ORDER:**

The writ petition is filed to declare the notice vide proceedings No.B/05/2015 dated 25.01.2015 issued by the respondent No.3 informing the petitioners that they are in authorized occupation of the Government land and calling upon them to get the land in an extent of 418.06 sq. meters bearing Plot No.158, Sy.No.9, Saroornagar, Ranga Reddy District, regularized under G.O.Ms.No.58 & 59 dated 30.12.2014, as being illegal, arbitrary and without jurisdiction.

2. It is submitted that the petitioner No.1 purchased land in an extent of 250 sq. yards bearing Plot No.158/B, Sy.No.9, Alkapuri Colony, Saroornagar, Ranga Reddy District, which is part of plot No.158, under registered sale deed dated 10.08.1990. The petitioner No.2 purchased the other half of the said plot i.e. Plot No.158/A admeasuring 250 sq. yards under registered sale deed bearing document No.10606/1990 dated 10.08.1990. Petitioners purchased these plots (subject land) from one M. Venkata Rao and his two sons, M.V. Krishna Rao and M. Sridhar. The petitioners had been in possession of the subject land since the date of purchase.

3. It is stated that on receipt of the impugned notice dated 25.01.2015, the petitioners came to know that their vendor, M. Venkata Rao, filed declaration under Section 6(1) of the Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the Act') whereunder 752.50 sq. meters of land in Plot Nos.65, 66 and 67 in Sy.Nos.34/1 and 34/2, Bomrukundowla village; 418.10 sq. meters of land in Plot No.158, Sy.No.9, Alkapuri Colony (subject land) and vacant land in an extent of 483.30 sq. meters in Visakhapatnam were shown. The total extent of land declared by M. Venkata Rao was 1492.75 sq. meters and he was declared surplus for an extent of 492.75 sq meters, which included the subject land and an extent of 74.6 sq. meters in Plot Nos.65, 66 and 67 in Sy.Nos.34/1 and 34/2, Bomrukundowla village.

4. It is stated that M. Venkata Rao submitted exemption application under Section 20(1)(b) of the Act. The respondent No.2 issued a Memo No.D1/3075/76 dated 17.04.1990 stating that the application made by Venkata Rao was forwarded to the respondent No.1. Vide G.O.Ms.No.925 Revenue (UC.II) Department dated 15.09.1989, the respondent No.1 laid down certain conditions for processing the application. It is stated that the vendor of the petitioners informed them that he would comply with the condition imposed by the Government i.e. payment of requisite amounts to the Government while selling the plot. It is stated that alleging

non-compliance of the conditions imposed vide exemption granted to Venkata Rao under G.O.Ms.No.925 dated 15.09.1989 proceedings were issued under Section 10 of the Act for taking over possession of the subject property.

5. Learned counsel for the petitioners submitted that the mandatory notice under Section 10(5) of the Act was not served to the petitioners, though petitioners were in actual and physical possession of the subject property under registered sale deeds executed in the year 1990. As physical possession of the subject property was not taken, by virtue of Sections 3 and 4 of the Urban Land (Ceiling and Regulation) Repeal Act, 1999, which came into force in the State of Andhra Pradesh from 27.03.2008, the subject property is saved and thus, insisting upon the petitioners to get the subject property regularized under G.O.Ms.Nos.58 and 59 dated 30.12.2014 is arbitrary and illegal. Learned counsel further submitted that the subject property is a free-hold property and possession was not taken in accordance with the mandatory provisions under Sections 10 (5) and 10(6) of the Act. It is contended that the alleged panchanama was conducted on 20.05.2008 after ULC Act was repealed (27.03.2008), which is illegal and without jurisdiction.

6. The respondents in their counter submitted that Venkata Rao was declared surplus to an extent of 492.75 sq meters, final order under Section 8(4) of the Act was passed on 11.03.2004 and notice under Section 10(1) of the Act was issued on 27.04.2004. Thereafter, declaration under Section 10(3) of the Act was issued on 25.05.2007. Notice under Section 10(5) of the Act was issued on 28.07.2007 and order under Section 10(6) of the Act was passed on 20.10.2007. The vacant possession of the subject land was taken over by the Enquiry Officer, ULC, under the cover of panchanama on 09.02.2008. Thereafter, the Mandal Revenue Inspector, Office of the then Deputy Collector & Tahsildar, Saroornagar Mandal, was handed over possession of the subject property on 09.05.2008.

7. Learned Government Pleader for Assignment submitted that the subject lands purchased by the petitioners are declared surplus under the Act. The petitioners purchased the subject land during pendency of the ceiling case and thus, the sale deeds of the petitioners are void in terms of Section 5(3) read with Section 10(4) of the Act. The exemption application submitted by the vendor of the petitioners, M. Venkata Rao, was considered vide G.O.Ms.No.925 dated 15.09.1989. The declarant has not complied with the conditions of the G.O. and sold the plots to the petitioners without obtaining prior permission from the Special Officer and

Competent Authority, ULC. Thus, question of service of notice under Section 10(5) of the Act to the petitioners does not arise. Further, the notice under Section 10(5) of the Act was served on the LR's of the declarant and possession of the land was taken under Section 10(6) of the Act on 09.02.2008.

8. Learned Government Pleader for Assignment further submitted that the petitioners did not avail regularization scheme introduced by the Government under G.O.Ms.No.59 dated 30.12.2014 whereunder facility was provided to the unauthorized occupants to get the surplus lands under the Act regularized.

9. Heard learned counsel for the petitioner and learned Government Pleader for Assignment.

10. It is not disputed by the learned Government Pleader for Assignment that the subject lands are covered by the G.O.Ms.No.733 dated 31.10.1988. Under G.O.Ms.No.733, general exemption was granted for holding five (5) acres of land in the peripheral area of Hyderabad Urban Agglomeration. This Court in **NALLA YAKOOB v. GOVT. OF AP**<sup>1</sup> held that exemption under G.O.Ms.No.733 dated 31.10.1998 is a general exemption. This decision was followed in **KAUSHALYA S. KEWAL RAMANI v.**

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<sup>1</sup> 1992 (2) ALT 473

**GOVERNMENT OF ANDHRA PRADESH<sup>2</sup>** wherein it was held as under:

"5. There is no dispute that Kapra Village, where the petitioner's property is located, is in the peripheral area of Hyderabad agglomeration. The said fact was admitted by the 2nd respondent in the counter.

6. The petitioner's Counsel placing reliance on G.O.Ms.No.733 Revenue (UC. II) Department dated 31.10.1988 contended that the Government exempted vacant land to the maximum extent of Acs.5.00 located in peripheral area of Hyderabad Urban Agglomeration in excess of the ceiling limit from the provisions of Chapter-III of the Act. Subsequently, G.O.Ms.No.217 Revenue (UC.II) Department, dated 18.4.2000 was passed amending G.O.Ms.No.733 to the effect that exemption in G.O.Ms.No.733 does not apply where the Government has taken over possession of the surplus land under Sections 10(5) and 10(6) of the Act from the declarants as on 31.10.1988. As pointed out earlier, in, this case, till the year 2006, the proceedings under Sections 10(5) and 10(6) of the Act were not taken by the authorities concerned. Therefore, the exemption in G.O.Ms.No.733 is applicable to the case of the declaration by the 1st petitioner's late husband.

7. This Court in *Nalla Yakoob v. Government of A.P. Revenue (UC. II) Department*, 1992 (2) ALT 473, held that there is general exemption granted under G.O.Ms.No.733 Revenue (UC2) Department, dated 31.10.1988 and it does not contemplate making any application by any individual claiming the said exemption. This Court observed as follows:

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<sup>2</sup> 2012 (5) ALD 54

"The liability to surrender the excess land has to be determined now in the context of GO.Ms.No.733 Revenue (UC2) Department, dated 31.10.1988 and not otherwise. This G.O.Ms.No.733, dated 31.10.1988 has been issued by the Government in exercise of its powers under Section 20(1)(a) of the Urban Lands (Ceiling and Regulation) Act, 1976 enunciating a policy to grant exception of vacant land in the peripheral area as specified in Column (3) of Schedule-I to the Urban Lands (Ceiling and Regulation) Act, 1976 prescribing a maximum of 5 acres of land, that too, after making provision for roads, open spaces, hospitals and school. This is a general exemption granted not contemplating or making any application by any individual. This exemption is automatic, provided, two conditions are complied; namely (1) that the land is in peripheral area; and (2) that the maximum extent is five acres exclusive of the land set apart towards roads, open spaces, school and hospital."

8. In that view of the matter, the notice dated 22.12.2006 issued under Section 10(5) of the Act and order passed on 13.2.2007 under Section 10(6) of the Act and the alleged taking over possession of the surplus land on 13.3.2008 are wholly without jurisdiction and ultra virus.

11. In **KAUSHALYA S. KEWAL RAMANI**'s case.(2 supra), it was claimed by the Government that final statement under Section 9 was issued on 25.02.1980 declaring the petitioner as surplus holder to an extent of 792.65 sq. meters; Section 10(5) notice was issued on 22.12.1996, Section 10(6) order was passed on 13.02.2007 and possession was taken over by the Government on 13.03.2008.

Learned Single Judge, as observed in the preceding paragraph, held that exemption under G.O.Ms.No.733 dated 31.10.1988 is applicable having regard to the fact that possession of the land was not taken prior to 31.10.1988 even though Section 8(4) read with Section 9 statement was issued on 25.02.1980.

12. In the present case, the possession of the subject land is alleged to have been taken over on 08.02.2008, which is much later to issuance of G.O.Ms.No.733 dated 31.10.1988. In view of the decisions of this Court in **NALLA YAKOOB's** case (1 supra) and **KAUSHALYA S. KEWAL RAMANI's** case (2 supra), the alleged taking over possession under the cover of panchanama dated 08.02.2008 is illegal and void.

13. According to the learned Government Pleader for Assignment, the vendor of the petitioners submitted exemption application under Section 20(1)(b) of the Act, which was favourably considered vide G.O.Ms.No.925 Revenue (UC.II) Department dated 15.09.1989. However, he has violated the conditions of the G.O.Ms.No.925 by not paying requisite amount to the Government and sold the subject plots to the petitioners without obtaining permission under Section 26 of the Act. Thus, the petitioners cannot claim exemption under G.O.Ms.No.733 dated 31.10.1988.

14. In the considered opinion of this Court, special exemption under G.O.Ms.No.925 dated 15.09.1989 for the subject land was not required when general exemption of 5 acres was granted by G.O.Ms.No.733 dated 31.10.1988 and the subject land automatically stood exempted without any conditions. The G.O.Ms.No.925 dated 15.09.1989 and the conditions prescribed therein become otiose.

15. The other issues relating to service of mandatory notice under Section 10(5) and order under Section 10(6) of the Act to the petitioners and the locus of the petitioners to challenge the ULC proceedings is not necessary to be dealt with in the light of the above observations. Suffice to state that the subject property was a freehold property by the time the petitioners purchased the same under sale deeds dated 10.08.1990.

In view of the above, the writ petition is allowed as prayed for. The miscellaneous petitions pending, if any, shall stand closed.

There shall be no order as to costs.

**SD/- P. PADMANABHA REDDY**  
**ASSISTANT REGISTRAR**

**//TRUE COPY//**

**SECTION OFFICER**

**To**

1. The Principal Secretary - Revenue, Secretariat, Hyderabad, State of Telangana.
2. Special Officer and Competent Authority, Nampally, Hyderabad, Urban Land Ceiling Authority.
3. The Deputy Collector & Tahsildar, Saroomnagar Mandal, R.R.District.
4. One CC to SRI LINGAMPELLY RAVINDER, Advocate [OPUC]
5. Two CCs to GP FOR ASSIGNMENT, High Court for the State of Telangana, at Hyderabad. [OUT]
6. Two CD Copies

PSK.

GJP

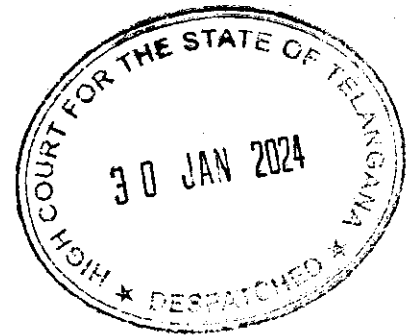
CC TODAY

HIGH COURT

DATED:02/11/2023

ORDER

WP.No.10650 of 2015



ALLOWING THE WRIT PETITION  
WITHOUT COSTS.

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30/1/24  
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