

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

**TUESDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE SRI JUSTICE K. SARATH

WRIT PETITION NO: 29463 OF 2013

Between:

1. Bondugula Surender Reddy, S/o. Desai Reddy, Aged about 63 years, Occupation Agriculture
2. Bondugula Venkat Reddy, S/o. Desai Reddy, Aged about 60 years, Occupation Agriculture

[Both R/o. H.No.10-1-185/3/2, Mangamma Thota Siddipet Town, Medak District]

.....PETITIONERS

AND

1. The Joint Collector, Medak at Sangareddy Medak District.
2. The Revenue Divisional Officer, Siddipet, Medak District.
3. The Tahsildar, Kondapak Kondapak Mandal, Medak District
4. Mohd. Khaja Mohiuddin, S/o. Shaik Imam,
5. Vanga Surender Reddy, S/o. Parsha Reddy
6. Vanga Swaroopa Rani, W/o. Surender Reddy
7. Soma Sundaraiah, S/o. Gouraiah
8. Soma Rathnawa, W/o. Gouraiah,
9. Soma Srikanth, S/o. Sundaraiah, {Respondents No.4 to 9 are formal parties as no relief is claimed against them}
10. Nagapuri Balarju Goud, S/o.Yella Goud, 57 years, R/o.Duddeda viz, Kondapaka Mandal, Siddipet District.

(R – 10 is impleaded as per Court Order dated 21-2-2018 in I.A.No.1 of 2017 WPMP.No.37101 of 2017)

.....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 an appropriate writ, order or direction more particularly one in the nature of Writ of Certiorari calling for records relating to file No.F3/5395/2008 - F3/33/Assn/2008 dt.25.07.2013 of the Joint Collector, Medak, at Sangareddy i.e. 1st Respondent herein in so far as it relates to ordering resumption of land in of Sy. No.658 admeasuring Ac.5-11 Gts situated at Duddeda (Village), Kondapak (Mandal), Medak (District) from the Petitioners in favour of the Government as arbitrary, illegal and without jurisdiction and quash the same.

Counsel for the Petitioners : SRI E.SESHAGIRI RAO

Counsel for the Respondent Nos.1 to 3 : AGP FOR ASSIGNMENT (REVENUE)

Counsel for the Respondent Nos.4 to 9 : SRI SRINIVAS KAPATIA

Counsel for the Implead Respondent : SRI RAVINDER ALKUCHI

The Court made the following ORDER

THE HON'BLE SRI JUSTICE K.SARATH

WRIT PETITION No.29463 OF 2013

ORDER:

Heard learned counsel for the petitioners, learned Assistant Government Pleader for Assignment for the respondent Nos.1 to 3, learned counsel for the respondent No.10 and the respondent Nos.4 to 9 are proforma parties and perused the entire material on record.

2. Learned counsel for the petitioners submits that the father of the petitioners was a freedom fighter. Under the political sufferer quota, the land admeasuring to an extent of Ac.5-11 gts., situated in Sy.No.658 situated at Duddeda Village, Kondapak Mandal, Medak District was assigned by the then M.R.O., Kondapak *vide* proceedings No.B/1559/1997, dated 04.10.1997. In pursuance of the said assignment, the father of the petitioners was in possession and enjoyment of the said land till his death on 31.10.2001. After the death of the father of the petitioners, the respondent Nos.4 to 9

herein have set up a false claim that they have purchased the subject land from the father of the petitioners in the year 1998 and 2000 and also mutated their names in the revenue records and illegally occupied the subject lands from the petitioners. On the complaint filed by the petitioners, the respondent No.3 enquired into the matter, after giving notices to the parties, passed an order in proceedings No.B/315/2006, dated 17.08.2007, stating that in view of Section 4(1) of the A.P. Assigned Lands (Prohibition of Transfer) Act, 1977, restored the subject land in favour of the petitioners and ordered for correction of the revenue records. Aggrieved by the said order of the respondent No.3, the respondent Nos.4 to 9 filed an Appeal before the respondent No.2 and after hearing both sides dismissed the Appeal *vide* proceedings No.C/3054/2007, dated 02.06.2008 and confirmed the orders of the respondent No.3. Thereafter, challenging the said orders passed by the respondent No.2, the respondent Nos.4 to 9 filed Revision before the respondent No.1 and the respondent No.1 *vide* order

dated 25.07.2013 dismissed the Revision Petition filed by the respondent Nos.4 to 9 confirming the orders of the respondent No.2 and as well as M.R.O., Kondapak and directed the respondent No.3 to resume the subject land in favour of the Government under proper panchanama as there is no provision to restore the subject land to the legal heirs of the freedom fighter and to make necessary entries in the revenue records. Challenging the said resumption orders, the petitioners filed the present writ petition seeking a direction to set aside the resumption orders passed by the respondent No.1 and requested to allow the writ petition.

3. Learned Assistant Government Pleader for Revenue basing on instructions would submit that the respondent No.1 has rightly dismissed the revision petition filed by the unofficial respondents and directed to resume the lands as the father of the petitioners violated the provisions of Section 3 of the A.P. Assigned Lands (Prohibition of Transfer) Act, 1977 and there is no irregularity and illegality in the orders passed by the

respondent No.1 and requested to dismiss the writ petition.

4. After hearing both sides, this Court is of the considered view that the petitioners are questioning the impugned proceedings, dated 25.07.2013 passed by the respondent No.1 in File No.F3/5395/2008-F3/33/Assn/2008 in so far as it relates to ordering resumption of land in Sy.No.658, admeasuring Acs.5.11 gts., situated at Duddeda Village, Kondapak Mandal, Medak District, of the petitioners in favour of the Government. There is no dispute with regard to the assignment of land to the father of the petitioners under political sufferer quota in the suit schedule property as per proceedings dated 04.10.1997. While it being so, after the death of the father of the petitioners, the names of the un-official respondents were mutated in the revenue records. Basing on the complaint made by the petitioners, the respondent No.3-Tahsildar conducted enquiry and restored the possession to the petitioners in proceedings No.B/315/2006, dated 17.08.2007.

Aggrieved by the same, unofficial respondents filed an Appeal before the respondent No.2 for correction of entries in the revenue records. The respondent No.2 after issuing notice to the petitioners and after hearing both sides, held that as per standing instructions of the Government, the freedom fighter is eligible to sale the assigned land only after completion of ten (10) years from the date of assignment, but, the lands were sold to the unofficial respondents within one year. In view of the same, as per Section 4 (1) of the Andhra Pradesh Assigned Lands (Prohibition of Transfer) Act, 1977, the lands can be restored to the original assignees and dismissed the Appeal against the said orders. Thereafter, the unofficial respondents filed revision petition before the respondent No.1 and in the revision petition, the respondent No.1 has given a finding that the original assignee has violated the assignment conditions as stipulated in G.O.Ms.No.185, Revenue (Assn-I) Department, dated 11.03.1997 and there is no provision for restoration of assigned lands to the legal heirs of the

original assignees and directed the respondent No.3-Tahsildar concerned to resume the suit schedule land in favour of the Government.

5. The respondent No.1 passed impugned orders mainly basing on the G.O.Ms.No.185, Revenue (Assn.I) Department, dated 11.03.1997 and G.O.Ms.No.917, Revenue (Assn.I) Department, dated 31.10.1997. Taking into account of the said G.O's, it is stated that the freedom fighters are not entitled to alienate the lands. If the assigned land is alienated by way of sale by a freedom fighter, such assignment shall be cancelled and the land shall be resumed by the Government.

6. The impugned order passed by the respondent No.1 on 25.07.2013 was based on G.O.Ms.No.185, Revenue (Assn.I) Department, dated 11.03.1997 and G.O.Ms.No.917, Revenue (Assn.I) Department, dated 31.10.1997, but the above said G.O's were amended by issuing G.O.Ms.No.1045, Revenue (Assn.I) Department, dated 15.12.2004 and the operative portion of the said G.O. is as follows:

"ORDER:

In para 3(3) of the G.Os. read above, the following words i.e., "The Freedom Fighters are not entitled to alienate the lands. If the assigned land is alienated by way of sale by a Freedom Fighter, such assignment shall be cancelled and the land shall be resumed by the Government" shall be deleted and the following amendment shall be substituted:-

Amendment

"(3) The Freedom Fighters are free to sell away their assigned land and house sites after a period of ten years".

7. After the issuance of G.O.Ms.No.1045, Revenue (Asn.I) Department, dated 15.12.2004, there is no mention about the cancellation of assignment granted to the freedom fighters, even if there is any violation of the condition of the assignment patta granted in favour of the freedom fighters.
8. The orders passed by the respondent No.3 on 17.08.2007 and the existing Rule 4(1) of the A.P.Assigned Lands (Prohibition of Transfers) Act, 1977, as on the date of the orders passed by the respondent No.3-Tahsildar is as follows:

"4. Consequences of breach provisions of Section 3:-

(1) If in any case, the District Collector or any other officer not below the rank of a [Mandal Revenue Officer] authorised by him in this behalf, is satisfied that the provisions of sub-section (1) of Section 3 have been contravened in respect of any assigned land, he may, by order-

(a) take possession of the assigned land, after evicting the person in possession in such manner as may be prescribed; and

(b) restore the assigned land to the original assignee or his legal heir, or where it is not reasonably practicable to restore the land to such assignee or legal heir, resume the assigned land to Government for assignment to landless poor persons in accordance with the rules for the time being in force;

Provided that the assigned land shall not be so restored to the original assignee or his legal heir more than once, and in case the original assignee or his legal heir transfers the assigned land again after such restoration, it shall be resumed to the Government for assignment to any other landless poor person.

In view of the above provision, the petitioners are entitled to restore the assigned lands as legal heirs of the original assignee. The orders passed by the respondent No.3 *vide* proceedings No.B/315/2006, dated 17.08.2007, which were confirmed by the respondent No.2 in proceedings No.C/3054/2007, dated 02.06.2008, are valid and the orders passed by the respondent No.1 *vide* proceeding No.F3/5395/2008-F3/33/Assn/2008, dated 25.07.2013 is liable to be set aside.

9. The respondent Nos.4 to 9 have filed Revision Petition before the respondent No.1 but not challenged the impugned orders dated 25.07.2013, passed by the respondent No.1. They have made proforma parties in the writ petition, as they have not challenged the

impugned proceedings dated 25.07.2013. It clearly shows that they have no interest in the suit schedule property.

10. In view of the same, the writ petition is disposed of and the impugned orders passed by the respondent No.1 *vide* proceedings No.F3/5395/2008-F3/33/Assn/2008, dated 25.07.2013 is set aside and the orders passed by the respondent No.3 in proceedings No.B/315/2006, dated 17.08.2007 and the orders passed by the respondent No.2 in proceedings No.C/3054/2007, dated 02.06.2008 needs no interference. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

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Sd/- T. TIRUMALA DEVI
ASSISTANT REGISTRAR
SECTION OFFICER

To

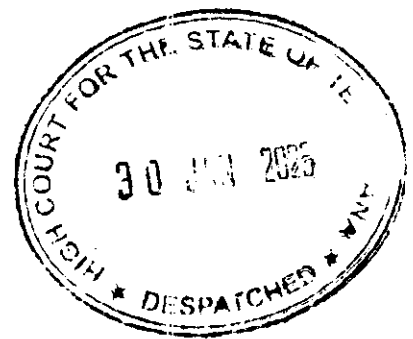
1. The Joint Collector, Medak at Sangareddy, Medak District.
2. The Revenue Divisional Officer, Siddipet, Medak District.
3. The Tahsildar, Kondapak Kondapak Mandal, Medak District.
4. Two CCs to GP for ASSIGNMENT, High Court for the State of Telangana at Hyderabad. [OUT]
5. One CC to SRI E.SESHAGIRI RAO, Advocate [OPUC]
6. One CC to SRI RAVINDER ALKUCHI, Advocate [OPUC]
7. One CC to SRI SRINIVAS KAPATIA, Advocate [OPUC]
8. Two CD Copies

SA
MP

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HIGH COURT

DATED:31/12/2024



ORDER

WP.No.29463 of 2013

**DISPOSING OF THE W.P
WITHOUT COSTS.**

*(1) Copies
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30/1/25*