

**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: 17816 OF 2011

Between:

1. D. Prasanna Kumari (deid) per Lrs 2to4, W/o. Late Sri D. Narsa Raju Legal Practitioner (Advocate) R/o. Masab Tank, Hyderabad.
2. D. Sailendra Kumari
3. D.V.S.N. Bhuvanendra Kumar
4. D.V. Gnanendra Kumari

(Petitioners 2to4 are brought on record as Lrs of deceased 1st petitioner as per Court Order dated 16-12-15 in WPMP.No.35724/2015)

.....PETITIONERS

AND

1. The Collector, Ranga Reddy District, Khairtabad, Hyderabad.
2. The Tahsildar, Moinabad Mandal, Ranga Reddy 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 call for the records connected with the passing of the impugned Order in PRCG.No. B/862/2009 dated 06-06-2011 by the 2nd respondent herein, in respect of the land in Sy.No.177/6 (3 acres 10 gts.) situated at Aziznagar Village, Moinabad Mandal, Ranga Reddy District and quash the same by issuing a Writ of Certiorari or any other appropriate Writ, Order or Direction.

I.A.NO:1 OF 2011(WPMP. NO: 21432 OF 2011)

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 suspend the operation of the impugned Order in PRCG.No. B/862/2009 dated 06-

06-2011 passed by the 2nd respondent in respect of the land in Sy. No. 177/ 6 of Aziznagar Village, Moinabad Mandal, Ranga Reddy District, pending final disposal of the main writ petition.

I.A.NO:2 OF 2015(WPMP. NO: 35725 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 bring the petitioners herein on record as L.R.'s of sole petitioner i.e. Smt. D.Prasanna Kumari, as Petitioners No. 2 to 4 in the main W.P.No. 17816 of 2011.

I.A.NO:1 OF 2016(WVMP. NO: 619 OF 2016)

Between

1. The Collector, Ranga Reddy District, Khairtabad, Hyderabad.
2. The Tahsildar, Moinabad Mandal, Ranga Reddy District.

.....PETITIONERS/RESPONDENTS

AND

D. Prasanna Kumari, W/o. Late Sri D. Narsa Raju, aged 75 years, Occ : Legal Practitioner (Advocate) R/o. Masab Tank, Hyderabad.

....RESPONDENT/PETTITIONER

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 vacate the interim orders dt: 29.06.2011, passed in WP.No.17816 of 2011 and dismiss the writ petition.

Counsel for the Petitioners : SRI J.SURESH BABU

Counsel for the Respondents : GP FOR REVENUE

The Court made the following ORDER

THE HON'BLE SRI JUSTICE K.SARATH

WRIT PETITION No.17816 OF 2011

ORDER:

Heard learned Counsel appearing for the petitioner and learned Assistant Government Pleader for Assignment appearing for the respondents and perused the entire material on record.

2. Learned Counsel appearing for the petitioner submits that the schedule property admeasuring to an extent of Ac.3-10 guntas in Sy.No.177/6, situated at Aziznagar Village, Moinabad Mandal, Rangareddy District. For the Sy.No.177 of Aziznagar Village, Moinabad Mandal, this Court passed orders dated 16.12.2022 in W.P.No.8327 of 2008 by declaring the lands situated in Sy.No.177/1 to 177/38 of Aziznagar Village, Moinabad Mandal are patta lands and allowed the said writ petition.

3. The learned Counsel requested to pass similar orders in this writ petition by following the orders passed in W.P.No.8327 of 2008, dated 16.12.2022.

4. Learned Assistant Government Pleader for Assignment not disputing the submission made by the learned counsel for the petitioner and the orders passed by this Court in W.P.No.8327 of 2008, dated 16.12.2022.

5. The subject matter of the writ petition is in Sy.No.177/6 situated in Aziznagar Village, Moinabad Mandal, Rangareddy District and the above said W.P.No.8327 of 2008 is pertaining to the other subdivisions in Sy.Nos.177. This Court while disposing the writ petition, has called for the records with regard to the Sy.No.177 of Aziznagar Village, Moinabad Mandal, Rangareddy District and has given the finding as follows:

"10. At the time of hearing, this Court directed the Learned Government Pleader for Assignments to produce the records pertaining to the impugned proceedings and directed to produce the assignment

pattas issued to the landless poor persons in Sy.No.177.

The Learned Government Pleader produced the records and the records reveal that the Assistant Director of S&LNS, Ranga Reddy District issued a letter in Rc.No.G3/2722/96, dated 22.11.1996 stated that as per the Classer Akar register the Sy.Nos.177/1 to 38 Potes Patta lands and Pote 39 is porampoke. In the Sethwar and Wasool Baqui copies prepared in the year 1961, the Sy.Nos.177/1 to 39 shown as patta lands.

11. The letter of the Mandal Revenue Officer in Lr.No.B/3180/95, dated 21.07.1997 addressed to the District Collector that "I have verified the pahanies from the year 1954-55 (Khasras) wherein it is recorded that the Survey Nos.177/8, 12, 13 and 20 are as Kothakancha patta, except the survey numbers 177/1 & 177/39 which are recorded as sarkari porampoke. These details are carried upto 1981-82 pahani. And all of a sudden in the year 1982-83 it is recorded as Loani patta against each survey number (The extracts are submitted for perusal). The reasons for writing as Loani patta are not known. There is no record available in this office about assignment of this particular land to any person, because the names of pattadars are appeared in Revenue Records right from 1954-55". But the respondents are unable to produce the assignment pattas issued to the landless poor persons.

12. After hearing both sides and verifying the original records, this Court is of the considered view that as per

the letters of the Assistant Director, S&SLN, dated 22.11.1996 and the then Tahsildar, Moinabad Mandal dated 21.07.1997 clearly shows that there is no record available about the assignment of land to the landless poor persons in Sy.No.177 of Azeeznagar Village and the concerned authorities reported that the said land is patta land."

The findings of the above said writ petition squarely apply to the instant case as the suit schedule property pertaining to the Sy.No.177/6 of Aziznagar Village, Moinabad Mandal, Rangareddy.

6. In view of the submissions made by both sides, the writ petition is allowed by following the orders passed by this Court in W.P.No.8327 of 2008, dated 16.12.2022 and also setting aside the impugned orders passed by the respondent No.2 in PRCG.No.B/862/2009, dated 06.06.2011 and consequently, the respondents are directed to issue title deeds and pass books to the petitioner for the suit schedule land. There shall be no order as to costs.

7. Miscellaneous petitions, if any, pending shall stand closed.

That Rule Nisi has been absolute as above.
Witness the Hon'ble the Chief Justice ALOK ARADHE, on this
Tuesday, the Thirty First day of December, Two Thousand and Twenty four.

//TRUE COPY//

SD/- A.V.S.PRASAD
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The Collector, Ranga Reddy District, Khairtabad, Hyderabad.
2. The Tahsildar, Moinabad Mandal, Ranga Reddy District.
3. Two CCs to GP FOR REVENUE, High Court for the State of Telangana at Hyderabad. [OUT]
4. One CC to SRI J.SURESH BABU, Advocate [OPUC]
5. Two CD Copies

(Along with the copy of order dated 16.12.2022, in W.P.No.8327 of 2008)

SA

BSR

HIGH COURT

DATED:31/12/2024

ORDER

WP.No.17816 of 2011



**ALLOWING THE W.P
WITHOUT COSTS.**

8 Copies
1/2
10/2/25

THE HONOURABLE SRI JUSTICE K.SARATH**WRIT PETITION No.8327 of 2008****ORDER:**

This writ petition is filed for the following relief:

"...to issue an Order, Direction or a Writ more particularly one in the nature of Writ of Mandamus restraining the respondents from implementing the orders passed by the respondent No.2 in D.No.925/96, dated 28.02.1999 which was confirmed in appeal by the respondent No.1 vide case No. EI/ 1910/1999 dated 22.12.2007, declare them as illegal, void and consequently set aside the same..."

2. Heard Sri S.Ravindranath, Learned Standing Counsel for the petitioner and Learned Government Pleader for Assessments appearing for the respondents.

3. The Learned Counsel for the petitioner submitted that the petitioner purchased Ac.3.23 Guntas in Survey No.177/20, 35 Guntas in S.No.177/21, Ac.2.14 Guntas in S.No.177/7, Ac.1.25 Guntas in S.No.177/8, 22 Guntas in S.No.177/7, 32 Guntas in S.No.177/9, Ac.1.2 Guntas in Survey No.177/248, and Ac.1.9 Guntas in S.No.177/21 through 8 Registered Sale Deeds, which were registered as Document Nos.8346/95, 8345/95, 8348/95, 8347/95, 9393/95, 8349/95, 8344/95 and 8344/95 for valuable consideration the

particulars of the respective properties purchased from various owners with the previous Link documents.

4. The Learned Counsel for the petitioner further submitted that before purchasing the property, the petitioner verified the Revenue Records purchased the property through different registered sale deeds for valuable consideration. All the sale deeds of the petitioner are the registered documents and no objection was raised by Registering Authority that the lands in question are assigned lands. While it being so, the respondent No.3 issued a memo No.B2789/88 dated 16.09.1995 directing respondent No.4 to take possession of lands in Survey No.177/20, 177/8, 177/12 and 177/13 at Aziznagar Village by conducting Panchanama. Against the same, the petitioner filed the W.P.No.24627 of 1995 before this Court as the said lands are not assigned lands and the said deed was disposed of permitting the petitioner to avail the remedy of appeal under Act. The petitioner filed appeal before the respondent No.2 and the same was rejected on 28.02.1999. Whereafter, the petitioner approached the respondent No.1 and filed Writ Petition and the same was dismissed on 22.12.2007. Pending appeal proceedings, the matter was referred to Assistant Director of Survey and Land Records, Ranga Reddy District on 04.10.1996 with a direction to clarify the nature of land. The officer *vide* his letter No.3/2722/396 dated 22.11.1996 informed that "as per the Classer Akar Land Register for the year 1358 Fasli

that the Survey No.177 was subdivided into 39 pots and also mentioned in the remark column in Wasul Baqui Sethwar in Urdu that the lands in dispute lie in between Himayatsagar and Aziznagar Villages and later included in Aziznagar Village and that the lands are Patta Lands". The Learned Counsel submits that respondents are failed to consider the communication of the Mandal Revenue Officer, Moinabad wherein it has been stated that, "there is no record available in this office about assignments of this particular land to any person, because the names of pattadars appeared in Revenue Records right from 1954-55".

5. The Learned Counsel for the petitioner further submitted that the respondents have failed to appreciate the ratio laid down in the judgment reported in 1996 (4) ALD 572 (DB) Nimmagadda Rama Devi Vs District Collector which held on analysis of the provisions of the Act that only where there is a condition of non alienation while assigning the lands or if the land is assigned is under the provisions of the AP Lands Reforms (Ceiling of Agriculture Holdings) Act 1973 it would be "assigned land" within the meaning of the Act, where the assignment is without any such condition as to non alienation it would not be assigned land under the Act and it has no application.

6. The Learned Counsel for the petitioner further submitted that that even in a case where assigned land is allotted under Laoni Rules of 1950 the Division Bench held in 1977 (4) ALD 294 that the

condition with regards to non alienation has got to be incorporated before the said lands can be claimed as assigned lands under Act. Therefore it is submitted that it is well established that a condition of non alienability is the criteria under the Act or under 1960 Rules to identify whether a particular land is an assigned land or not. The perusal of the orders of the respondent Nos.1 and 2 would reveal that the important condition of alienability or non-alienability was not even taken note of. Therefore it is submitted that the findings of the respondent Nos.1 and 2 are based on mere surmise and conjecture. Learned Counsel for the petitioner further submitted that before any land is claimed as assigned land by the Respondents and to draw such a presumption the respondents must establish the date of assignment and the contemporaneous state of the Rules under which assignment was made. All these are essentially questions of fact and must first be put to the persons aggrieved so as to afford him a reasonable opportunity to explain or defend the possession, and ownership of the land is concerned which is a valuable property right, in the absence of which the Respondents are very casual in approach.

7. Learned Counsel for the petitioner relying upon the following judgments of this Court, requested this court to allow the writ petition.

- i) *Dasari Narayana Rao and Others Vs. Deputy Collector and Mandal Revenue Officer and Others reported in MANU/AP/1305/2006, A.P. Assigned Lands (Prohibition of Transfers) Act, 1977*¹
- ii) *G.V.K.Rama Rao and Another Vs. Bakelite Hylam Employees Co-operative House Building Society, Hyderabad reported in 1997 (4) ALD 294*²
- iii) *Nimmagadda Rama Devi and Others Vs. The District Collector, Krishna and Another reported in 1996 (4) ALT 325 (D.B.)*³

8. Learned Government Pleader for the Assignments submits that as per the records the Sy.No.177, admeasuring a total extent of Ac.162.08 Guntas of Aziznagar Village, Moinabad Mandal, was originally classified as Govt. Land (Kotha Kancha Sarkari). As per the entries in the pahanies of the Village from 1982-83 it is recorded as Laoni patta land. The said land was divided into 39 sub divisions. Out of which 38 sub divisions were allotted to the landless poor persons, Sy.No.177/7 admeasuring an extent of Ac.3.28 Guntas was assigned to Sri Manjugalla Venkaiah, Sy.No.177/8, Extent Ac.3.08 Guntas was assigned to Sri Antharam Danaiah, Sy.No.177/9, Extent Ac.3.32 Guntas was assigned to Sri Gunti Laxmaiah, Sy.No.177/20, Extent Ac.3.23 Guntas was assigned to Sri Munjagalla Papaiah, Sy.No.177/21, Extent Ac.3.30 Guntas was assigned to Sri Munjagalla Aelaiah. The Gram Panchayat has issued no objection certificate for construction of the factory in the said survey numbers and the A.P. Pollution Board

¹ 2010 (4) ALT 655

² 1997 (5) ALD 294

³ 1996 (4) ALT 325 (DB)

issued a clearance certificate for Sy.No.177/7, 8, 9 and 20. In this connection it is submitted that the Gram Panchayat is not having any jurisdiction over the Government Lands for grant of NOC to construct the factory. The Gram Panchayat of Aziznagar Village without verifying the title of the land issued NOC.

9. The Learned Government Pleader for Assignments further submitted that from 1995 to till date the Revenue Records show that the said survey numbers are classified as assigned lands. As per Section 3(2) of the A.P.Assigned Lands, no landless poor person shall transfer any assigned land and no person shall acquire any assigned land either by purchase gift, lease mortgage exchange or otherwise. The petitioner herein has purchased the assigned lands, which is in violation of the provisions of the A.P.Assigned Lands (POT) Act, 1977.

10. At the time of hearing, this Court directed the Learned Government Pleader for Assignments to produce the records pertaining to the impugned proceedings and directed to produce the assignment pattas issued to the landless poor persons in Sy.No.177. The Learned Government Pleader produced the records and the records reveal that the Assistant Director of S&LNS, Ranga Reddy District issued a letter in Rc.No.G3/2722/96 dated 22.11.1996 stated that as per the Classer Akar register the Sy.No.177/1 to 38 Potes Patta lands and Pote 39 is porampoke. In the Sethwar and

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12. After hearing both sides and verifying the original records, this Court is of the considered view that as per the letters of the Assistant Director, S&SLN, dated 22.11.1996 and the then Tahsildar, Moinabad Mandal dated 21.07.1997 clearly shows that there is no record available about the assignment of land to the landless poor persons in Sy.No.177 of Azeeznagar Village and the concerned authorities reported that the said land is patta land.

13. In view of the same, the authorities basing on the presumptions passed impugned orders and the revenue records from 1995 cannot be taken into account. This Court time and again held that there shall be condition of non-alienation in the Assignment patta. The respondents failed to produce the assignment pattas and the question of proceedings under A.P.Assigned Lands (POT) Act, 1977 does not arise. The judgement relied by the Learned Counsel for the petitioner apply to the instant case.

13. In view of the same, this Writ Petition is liable to be allowed. Accordingly, allowed. There shall no order as to costs.

14. Miscellaneous applications, pending if any, shall stand closed.

JUSTICE K.SARATH

Dated:16-12-2022

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