

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE TWENTY EIGHTH DAY OF NOVEMBER
TWO THOUSAND AND EIGHT

PRESENT
THE HON'BLE MR JUSTICE VILAS V. AFZULPURKAR
WRIT PETITION NO: 21946 of 1996
AND
WRIT PETITION NO: 22153 OF 2000

W.P.No.21946/1996

Between:

Sri Venkateswara Educational Society Rep. by its Secretary
&Correspondent, Smt M. Anasuyamma, Badvel, Cuddapah District,
..... PETITIONER

AND

- 1 The Joint Collector, Cuddapah.
- 2 The Revenue Divisional Officer, Rajampet, Cuddapah District.
- 3 The Mandal Revenue Officer, Badvel, Cuddapah District.
- 4 Sri B. Veera Reddy, Minister for Animal Husbandry, Government of Andhra Pradesh, Secretariat, Hyderabad.
- 5 The Government of Andhra Pradesh, Rep. by its Secretary, Revenue Department, Secretariat, Hyderabad.
- 6 Pandeti Jayamma W/o. Yesuratnam
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 7 P. Yesuratnam S/o. Samuel
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 8 Pandeti Vijayamma W/o. Obaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 9 Gollapalle Ramulamma W/o. Balaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 10 Pandeti Santemma W/o. Obaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 11 Pandeti Aseeravadamma W/o. Obaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 12 Nagipagu Anandamma W/o. Prakasam
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 13 Boinapalle Venkatasubbamma W/o. Penchalaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 14 Boinapalle Venkatasuseelamma W/o. Narasimhulu
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 15 Boinapalle Subbamma W/o. Venkatasubbaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.

- 16 Peddulapalle Mariyamma W/o. Jayanna
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 17 Peddulapalle Narasimhulu S/o. Narasiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 18 Peddulapalle Neelamma W/o. Pullaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 19 Peddulapalle Suseelamma W/o. Narasimhulu
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 20 Peddulapalle Yellamma W/o. Narasiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 21 Peddulapalle Mariya Rojamma W/o. Penchalaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 22 Peddulapalle Meramma W/o. Chinnappa
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 23 Cheinthapalle Lakshmi Devi W/o. Venkatesu
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 24 Cheinthapalle Obulamma W/o. Ramaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 25 Chinthapalle Lakshamma W/o. Ramasubbaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 26 Chinthapalle Obulamma W/o. Venkatasubbaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 27 Chinthapalle Venkatasubbamma W/o. Ramanaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 28 Chinthapalle Chenchamma W/o. Venkatasubbaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 29 Chinthapalle Lakshamma W/o. Venkatasubbaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 30 Chinthapalle Chenchamma W/o. Lakshmaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 31 Chinthapalle Lakshmaiah W/o. Subbaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 32 Chinthapalle Venkatamma W/o. Venkatasubbaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 33 Chinthapalle Venkatamma W/o. Subbaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 34 Peddulapalle Chennamma W/o. Yerramma
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 35 Peddulapalle Rajeswari W/o. Jayanna
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 36 Peddulapalle Narasamma W/o. Peesaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 37 Sunkara Veeramma W/o. Chennamma
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 38 Sunkari Chandramma W/o. Yanadaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 39 Sunkari Narasamma W/o. Polaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.

- 40 Gollapalle Ramulamma W/o. Eswaraiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 41 Peddulapalle Ramulamma W/o. Ramaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 42 Pedullapalli Suseelamma W/o. Jayanna
R/o. Pangavandlapalli Village, Badvel Mandal, Cuddapah Dist.
- 43 Peddulapalli Meramma W/o. Chinnappa
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 44 Peddulapalle Ramalakshamma W/o. Jayanna
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 45 Peddulapalli Narasamma W/o. Peda Narasaiah
R/o. Pangavandlapalli, Badvel Mandal, Cuddapah Dist.
- 46 Peddulapalle Santemma W/o. Santeiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 47 Peddulapalli Gangamma W/o. Penchalaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 48 Peddulapalli Chinnakka W/o. Balaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 49 Peddulapalli Ranemma W/o. Balaraju
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 50 Peddulapalli Agneshamma W/o. Narasimhulu
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 51 Chennuri Vengamma W/o. Peda Guravaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 52 Peddulapalli Chinnamma W/o. Penchalaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 53 Peddulapalli Chinnappa W/o. Penchalaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 54 Chennuri Nagamma W/o. Chinna Narsappa
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 55 Peddulapalli Lakshamma W/o. Chinnaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 56 Nadupuri Narasamma W/o. Chennaiah
R/o. Pangavandlapalli Village, Badvel Mandal, Cuddapah Dist.
- 57 Peddulapalli Jayamma W/o. Chinnappa
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 58 Peddulapalli Gangamma W/o. Narasaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 59 Peddulapalli Kamalamma W/o. Mohan Rao
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 60 Peddulapalli Gangamma W/o. Penchalaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 61 Gollapalli Sujatha W/o. Sankaraiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 62 Lakkileni Mariyamma W/o. Rayappa
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 63 Lakkileni Suseelamma W/o. Devaraj
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.

- 64 Chinthapalli Subbaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 65 Panditi Janaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 66 Peddulahalli Chennamma
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- 67 Peddulahalli Subbaiah
R/o. Pangavandlapalle Village, Badvel Mandal, Cuddapah Dist.
- Respondents 6 to 67 are impleaded as per
court order dt 30/7/99 in WPMP 16901/99 vide separate Sheet.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the first respondent in reserving the lands in S.No. 1794 and 1795 of Chennampalli Village, Badvel Mandal for provision of house sites to the weaker sections and grant house sites to eligible poor persons as arbitrary, illegal, malafide and politically motivated and consequently direct the first respondent to alienate an extent of 4.96 cents in S.No. 1794/3--- 1.46 acres, 1794/4-- 1.60 Acres and 1795/3-- 1.90 Acres to the petitioner's society and pass

Counsel for the Petitioner :MR.V.V.N.NARASIMHAM

Counsel for the Respondent No.: GP FOR REVENUE

W.P.No.22153/2000

Between:

Pandeti Jayamma, W/o. Yesuratnam,
R/o. Pangavandlapalli Village, H/o. Chennampalli Village,
Badvel Mandal, Cuddapah District.

..... PETITIONER

AND

- 1 The District Collector, Cuddapah, Cuddapah District.
- 2 The Mandal Revenue Officer, Badvel, Cuddapah District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of Writ of Mandamus declaring the inaction of the respondents in implementing the house site pattas granted to the petitioner and other beneficiaries in survey Nos. 1794 and 1795 of Chennampally village, Badvel Mandal, Cuddapah District as illegal, arbitrary, unjust,

discriminatory and violative of Art. 14 and 21 of the constitution of India and consequently direct the respondents to implement the house site pattas granted in the extent of Ac. 5-00 in survey Nos. 1794 and 1795 of Chennampalli Village, Badvel Mandal, Cuddapah District and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.P.SRIDHAR REDDY

Counsel for the Respondents: GP FOR REVENUE

The Court made the following :

COMMON ORDER:

W.P.No.21946 of 1996 is filed by the Educational Society challenging the action of the first respondent-Joint Collector in reserving the lands in Sy.Nos.1794 and 1795 of Chennampalli Village, Badvel Mandal for providing house sites to the weaker sections and for a consequential direction to the first respondent to alienate different extents in the said survey numbers to the petitioner-society.

W.P.No.22153 of 2000 is filed by the petitioner questioning the in action of the official respondents 1 and 2 in not implementing the house site pattas granted in favour of the petitioner and other beneficiaries in the same Sy.Nos.1794 and 1795 as above and for a consequential direction to the respondents to implement the said house site pattas to the extent of Acs.5.00 in the aforesaid survey numbers.

The facts, which are common with respect to both the writ petitions, are briefly stated as follows.

The petitioner in W.P.No.22153 of 2000 has alleged that there are about 66 families residing in Harijanawada of the aforesaid village, which is a flood prone area and their houses are getting repeatedly inundated. The Government had therefore taken a decision to

rehabilitate all the 66 families elsewhere in the said village and for that purpose these two Sy.Nos.1794 and 1795 were identified and an extent of Acs.5.00 of land was proposed to be utilized for the purpose of rehabilitation by allotting house site pattas of three cents to each woman in the said 66 families. The petitioner claims that she has been assigned Plot No.11 in S.No.1794 under the proceedings of the second respondent dated 9.10.1996 and 'D' form pattas in her favour as well as for 65 beneficiaries have been issued. It is further alleged that the houses were sought to be constructed under different schemes of the Government so as to rehabilitate all the 66 families from their existing flood prone area to the present location. Complaining in action on the part of the official respondents this writ petition is filed.

The petitioner in W.P.No.21946 of 1996, namely, Sri Venkateswara Educational Society has alleged that for the purpose of advancing the object of their society they require Acs.5.00 of land in the aforesaid survey numbers, which were duly identified on the basis of directions of the Collector, Kadapa, and accordingly, the Mandal Revenue Officer has processed the proposal of the petitioner-society and the same is at the stage of alienation subject to payment of market value in favour of the petitioner. The petitioner has alleged that the Government also fixed the market value at Rs.15,000/- per acre. While the petitioners, who are ready to obtain the said land, at the instance of the fourth respondent, the said proposal did not fructify. Thereafter, the petitioner came to know that at the hands of the fourth respondent, the District Collector was about to grant house site pattas to Harijans. Thereupon, the petitioner-society filed W.P.No.6103 of 1994 and by virtue of the interim order of status quo dated 04.04.1994 the assignment of the land to Harijans was stopped. It is further alleged that the said writ petition was finally disposed of by this Court by order dated 01.04.1996 directing the Collector to decide the controversy between the parties after giving notice to all the parties. It is there after that the Collector has given notices to all the parties and has taken a decision to reserve these

lands for the purpose of provision of house sites to the weaker sections and grant of house site pattas to eligible poor as per the Rules in vogue. By virtue of the order passed by the joint Collector dated 7.10.1996 the request of the petitioner-society for alienation, was rejected on the ground that the land is required for public purpose, viz., provision for house sites as above. The writ petition is directed against the aforesaid order, though from the prayer in the writ petition it is apparent that the said order as such is not questioned.

I have heard the learned counsel for the petitioner in respective writ petitions as well as the learned Government Pleader. I am informed that the fourth respondent died about three or four years back and the allegations made with respect to the said respondent in W.P.No.21946 of 1996 do not survive.

The official respondents have filed counter affidavit in both the writ petitions where their basic stand is that the 66 families, which are affected by the recurrent flooding of their existing houses required to be rehabilitated and for that purpose the land in the aforesaid survey numbers was identified and already assigned, and for all the said assignees housing colony is proposed to be constructed under Indira Awas Yojana 95-96 on the priority basis treating the beneficiaries as flood victims. It is further stated in the counter affidavit that the order of the Joint Collector dated 7.10.1996 is passed after duly considering the submissions of all the parties. The counter affidavit also denies that there was any move on the part of the official respondents to alienate the aforesaid land in favour of the educational society as alleged by it. It further contends that the Gram Panchayat had raised objections against alienation of the aforesaid land to the society and had in fact passed a resolution on 20.12.1993 for grant of house site pattas to the houseless poor of Chennampalli Panchayat area.

All the beneficiaries filed implead petitions in W.P.No.21946 of 1996 as per orders in W.P.M.P.No.16901 of 1999 dated 30.07.1999. They were impleaded as respondents 6 to 67. The implead respondent

No.6 is the sole petitioner in W.P.No.22153 of 2000 referred to above.

The counter affidavit of the official respondents in W.P.No.22153 of 2000 also confirms that the Joint Collector, Kadapa had taken into consideration of the attending circumstances and having felt that the land is required for public purpose, viz., providing of house sites to weaker sections, had reserved it for the said purpose while rejecting the proposal of the society for alienation in their favour. It is also stated in the said counter affidavit that vide proceedings No.757/93 dated 9.10.1996, the then Mandal Revenue Officer, Badvel assigned the land, admeasuring Acs.5.00 in Sy.Nos.1794 and 1795 of Chennampalli village of Badvel Mandal, Kadapa District, in favour of 66 beneficiaries belonging to SC and B.C. Communities, who are residing in the submergible areas of Somasila Project. They however stated that the possession of the land was not handed over to the assignees in view of the interim order passed in W.P.No.21946 of 1996 filed by the Society referred to above.

In the light of these affidavits and counter affidavits, the points for consideration are whether the Educational Society has a legal right to enforce and compel the Government to alienate the aforesaid land in their favour and secondly whether there is inaction on the part of the official respondents in W.P.No.22153 of 2000 wherein after assignment of house site pattas nothing further was done by the official respondents.

Firstly, the Educational Society, which is questioning the in action of the respondents in not alienating the land in their favour and further seeking a consequential direction to that effect, had not been able to show any existing legal right in their favour. A *Mandamus* sought for cannot be issued in favour of the petitioner, who has no subsisting legal right for the relief sought for.

Secondly, the proposal of the society seeking alienation in their favour was refused by the Joint Collector under his proceedings in D.Dis.(B7) 5225/93, dated 7.10.1996, primarily on the ground that the said land is required for public purpose. The Collector also relied upon

G.O.Ms.No.634 Revenue (Assn.III) Department, dated 2.07.1990, which provides that the land can be alienated in favour of the private parties only when they are not required for public purpose. Thus when the Government is satisfied that the aforesaid land is required for public purpose, viz., to rehabilitate the flood affected villages, it cannot be said that the subjective satisfaction reached by the Government, as above, is amenable to question under Article 226 of the Constitution of India.

The learned counsel for the petitioner in W.P.No.21946 of 1996 has made several submissions with reference to material particulars that the land was demarcated, the market value was fixed and that the proposal was at the final stage and that it was held up on account of extraneous reasons. Even assuming that all the said factual contentions are correct, it cannot be denied that it was at best a proposal emanating from the petitioner society and the Government is not bound to accept the said proposal. Even if the said proposal was examined at lower levels and some recommendations are made, the said proposal did not reach the stage of acceptance by the appropriate competent authority. The consideration of the said proposal and consequential rejection by the Joint Collector, is as per the directions of this Court in W.P.No.21946 of 1996 referred to above, therefore, cannot be found fault with. W.P.No.21946 of 1996 is therefore thoroughly misconceived and the same is liable to be dismissed.

So far as the second writ petition in W.P.No.22153 of 2000 is concerned, as stated above, the counter affidavits of the official respondents in both the writ petitions clearly support the case of the beneficiaries. It is evident that while the assignment was made and house site pattas were given, the matter remained at that stage. However, several years have elapsed and the present scenario of the ground is not known. Though there is no doubt about the entitlement of the petitioners, respondents 1 and 2 in W.P.No.22153 of 2000 shall now proceed further in the matter and complete the process of taking up constructions of houses under the appropriate scheme of the

Government as mentioned in the counter affidavit, so as to achieve the rehabilitation of the beneficiaries before they are subjected to one more flood. The respondents 1 and 2 are therefore directed to take appropriate decision in the matter in terms of the house site pattas already granted by them to 66 families as mentioned above, and do the needful for their rehabilitation including construction of houses.

Accordingly, W.P.No.21946 of 1996 is dismissed and W.P.No.22153 of 2000 is allowed as above. No costs.

(VILAS V. AFZULPURKAR,J)

28th November, 2008
Js.