

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION No.12524 of 2020

ORDER:-

This writ petition is filed questioning the action of the respondents particularly the respondent Nos.5 and 6 in not implementing the orders of the respondent No.4 in R.Dis.E1/4269/2018, dated 05.10.2018 for deletion of petitioner's land admeasuring Ac.0-31 cents in survey No.14/2-10 and Ac.1-82 cents in survey No.14-2-11 situated in Kanuparthipadu Village, Nellore Rural Mandal, SPSR Nellore District, from the list of prohibited property under Section 22(A) of the Registration Act, 1908 (for short the '**Act**') and not entertaining the document for registration by treating the said land as 'prohibited property'.

2. Heard Sri A. Giridhar Rao, learned counsel for the petitioner and learned Assistant Government Pleader for Revenue appearing on behalf of the respondents.

3. The case of the petitioner is that the land admeasuring Ac.0-31 cents in survey No.14/2-10 and Ac.1-82 cents in survey No.14-2-11 situated at Kanuparthipadu Village, Nellore Rural Mandal, SPSR Nellore District is a private zeroithi land. But by inadvertence in the re-settlement Register, the subject land was shown as dotted (...) land and therefore the said land was treated as a Government land and included in the prohibitory property list for registration under Section 22-A of the Act. It is stated that batch of writ petitions were filed before this Court questioning the action of the Government and Registering Authority in treating the dotted (...) land as prohibited property for registration based on

the entry in the re-settlement register. This Court gave directions to the respondents therein to register the lands holding that mere entries of the land as dotted in resettlement register is not conclusive proof of evidence that the land belongs to Government. Subsequently in a batch of writ appeals Division Bench of this Court has directed the Government to constitute a committee to deal with the grievances relating to the lands entered in prohibitory lists including the dotted (...) lands. Pursuant to the order of Division Bench of this Court, the Government has enacted Act No.10 of 2017, which is called as Andhra Pradesh Dotted Lands (Updation in Re-settlement Register) Act, 2017 (for brevity '**Act No.10 of 2017**'), which has come into force w.e.f. 14.06.2017.

4. Learned counsel for the petitioner submits that the petitioner's family is the absolute owner and possessor of land to an extent of Ac.0-31 cents in survey No.14/2-10 and Ac.1-82 cents in survey No.14-2-11 situated in Kanuparthipadu Village, Nellore Rural Mandal for the last several decades and they are in exclusive possession and enjoyment of the subject property. After the Act No.10 of 2017 has come into force, the petitioner has submitted application as per the provisions of the said Act and the Tahsildar, as prescribed under Rule 4(c) issued a notice in Form-VII calling for objections or claim from anyone within thirty days. The said notice was affixed in the notice board of Tahsildar, Gram Panchayat office and no objections were received from anyone. Thereafter the Tahsildar has forwarded the same to the District Level Committee. The District Level Committee after considering the matter in detail found that the claimant/predecessor is in continuous possession of the subject land for a period of more

than 12 years preceding 2017 and issued orders to the Tahsildar, Nellore Rural to take necessary action to recognize the subject land of the petitioner as patta land and incorporate the changes in re-settlement register and other revenue records of the village duly sub-dividing the subject land from the original survey number in respect of the petitioner's land. The District Level Committee, represented by its Chairperson/District Collector issued directions on 05.10.2018 to the District Registrar, Nellore to delete the subject land from the prohibitory property lists maintained under Section 22 (A) of the Act. Learned counsel for the petitioner submits that after the orders were passed by the District Collector the petitioner has approached the respondents for deletion of the subject lands from the list of Prohibited Properties under Section 22(A) as they are still shown as dotted land. But the District Registrar has not deleted the subject land and continuing the land as prohibited property and as such the petitioner having no other alternative remedy has approached this Court by way of present Writ Petition.

5. A close scrutiny of provisions of the Act is necessary to adjudicate the dispute involved in the case. As per Section 5 of the Act No.10 of 2017 a District Level Committee is constituted consisting of District Collector as the Chairperson, Joint Collector, Sub-Collector or Revenue Divisional Officer as members and the Tahsildar as member-convener. They are competent to hear and issue orders on the claims. Tahsildar shall file a claim before the District Level Committee and as per Section 7 District Level Committee shall dispose of the claim on merits and pass speaking orders within six months from the date of filing the claim by the

Tahsildar. As per Section 8 appeal against the orders of the District Level Committee shall lie before Chief Commissioner of Land Administration within ninety days and the decision of the Chief Commissioner of Land Administration on such appeal shall be final. As per Section 9 the re-settlement register shall be updated within one month in pursuance of the orders passed under Section 7 or 8 of the said Act as the case may be under Section 10 of the Act dotted (...) lands shall be updated in the name of person in column No.(16) re-settlement register shall be deleted from the list of prohibitory lands notified under Section 22-A(1) of the Act as amended by the Act No.10 of 2017 within one month from the date of the order under Section 7 or 8 as the case may be.

6. The Government of Andhra Pradesh has made rules vide G.O.Ms.No.298, Rev.(Assgn.I) Department dated 17.07.2017, which are called as Andhra Pradesh Dotted Lands (Updation in Re-settlement Register) Rules, 2017 (for brevity the **'Rules'**). As per Rule 4(c) of the Rules once an application is made, Tahsildar has to enquiry into the same by issuing notice to all the interested persons and affixing notices on the notice board of the Tahsildar, Gram Panchayat office and Village Revenue Office, Primary Agricultural Cooperative Society and any other conspicuous places of the village. Wide publicity shall be given by beat of tom-tom for filing of written objections by any interested person within thirty days from the date of publication of the notice before Tahsildar/conveyor concerned. As per Rule 4 (d) of the Rules Tahsildar shall maintain a Register of objections received in each claim, village-wise and after receiving objections, the Tahsildar

shall fix a date for conducting enquiry in the village itself and for this enquiry also notices have to be published in the same manner as mentioned in Rule 4 (c) of the Rules. After completion of enquiry, the Tahsildar shall prepare a comprehensive report and place it before District Level Committee for taking a decision. Rule 4 (m) mandates that the District Level Committee shall take a decision on the report submitted by the Tahsildar after perusing the claim, objections, evidences, records, etc., and shall pass speaking orders under Section 7 of the Act No.10 of 2017 within six months from the date of filing the claim.

7. An appeal under Rule 5 of the Rules has to be filed before the Chief Commissioner of Land Administration against the orders of the District Level Committee. The Chief Commissioner of Land Administration shall hear and dispose of the appeal on merits and shall issue speaking order under Section 8 within ninety days. Once an order is passed either under Section 7 or 8, the Tahsildar concerned shall update the re-settlement register and other revenue records including digitally maintained records duly deleting the dotted (...) lines within one month from the date of the order passed under Section 7 or 8 of the Act, as the case may be. As per Rule 7 of the Rules, the District Collector shall furnish the list of lands to the authorities concerned for deletion from the prohibitory list already furnished to Registration Department under Section 22-A(1) of the Act within one month from the date of the order under Section 7 or 8 of the Act as the case may be and the Registering Officer concerned shall delete the lands as furnished by the District Collect under Rule 7(a) from the prohibitory lists furnished under Section 22-A(1) of the Act.

8. In the present case on hand, the petitioner has made an application as per Rules to the Tahsildar and the Tahsildar issued notices on 23.01.2018 calling for objections within 30 days from the date of issuance of the notice and followed the procedure by affixing the same as per the Rules. Later when no objections were received from any person, the Tahsildar, as per Rule 4 has placed the same before District Level Committee. The District Level Committee after considering all the relevant records found that the lands are under the active possession of the claimant/predecessor for a period of 12 years and more prior to the stipulated date i.e. 17.07.2017. The District Level Committee issued orders to the Tahsildar, Nellore Rural to take necessary action to treat/recognize dotted (...) land admeasuring Ac.0-31 cents in survey No.14/2-10 and Ac.1-82 cents in survey No.14-2-11 as patta lands and to incorporate the changes in the re-settlement register and other revenue records maintained by the village. In the order it was mentioned that an appeal lies to the Chief Commissioner of Land Administration under Section 8 of the Act No.10 of 2017. This order of the District Level Committee is dated 05.10.2018. An appeal has to be preferred before the Chief Commissioner of Land Administration within 90 days. Undisputedly, in this case no appeal has been preferred by the respondents to the Commissioner of Land Administration and as per the provisions of the Act, a duty is cast upon the respondents to update the re-settlement register and other revenue records including digitally maintained records duly uploading the orders passed under Section 7 or 8 of the Act No.10 of 2017, as the case may be within one month from the date of the order. As per Rule 7 of the Rules, the District Collector shall

furnish the list of the lands to the concerned registering authority within one month from the date of the order under Section 7 or 8 as the case may be and on such furnishing of the details, the registering authority shall delete the entries.

9. It is very surprising to see that the order is passed by the District Level Committee on 05.10.2018 and so far no action has been taken by the respondents to delete the lands from the dotted list and respondent Nos.5 and 6 have not taken any steps to remove the lands from the prohibitory list under Section 22 (A) of the Act. When particular statute prescribes a particular procedure to be followed, the respondents being the public servants are supposed to act in accordance with the same and discharge the responsibility cast upon them. Particularly when a time frame is fixed they are bound to follow the same. But the respondents are taking years together to comply with the orders for the best reasons known to them.

10. Hence in view of the same there is a direction to the respondents to delete the subject lands from the prohibitory list under Section 22-A of the Act and to receive and register the documents presented by the petitioner as per the provisions of the Act within a period of two months from the date of receipt of a copy of the order.

11. With the above direction, the Writ Petition is disposed of. No costs. Consequently, miscellaneous applications pending, if any, shall stand closed.

LALITHA KANNEGANTI, J

Date : 31.07.2020
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THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

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31.07.2020

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