

**HON'BLE SRI JUSTICE M. VENKATA RAMANA**

**W.P.No.12383 of 2020**

**ORDER:**

The petitioner has sought the relief in this writ petition as under:

“To issue an appropriate writ, order or direction, more particularly one in the nature of **writ of mandamus**, declaring the action of the respondents 2 and 3 in interfering with the peaceful possession and enjoyment in Rs.No.297 of Ac.8.85 cents situated in the village of Kunchanapalli of Tadepalligudem Mandal, West Godavari District, as illegal, arbitrary and violative of Principles of Natural Justice and consequently directing the respondents not to interfere with the enjoyment in Rs No.297 of Ac.8.85 cents situated in the village of Kunchanapalli of Tadepalligudem Mandal, West Godavari District.”

2. The petitioner is a resident of Tadepalligudem, West Godavari District. She is a senior citizen, who is described in the affidavit filed in support of this petition, being 80 years old.

3. As seen from the prayer referred to above in the writ petition, the cause raised by her is in respect of Ac.8.85 cents in Kunchanapalli village in R.S.No.297 of Tadepalligudem, West Godavari District.

4. Kunchanapalli village was an Inam (Estate) village. Total extent of the land in this village under the Estate was Ac.2833.13 cents including Poramboke lands in an extent of Ac.322.48 cents while Zeroythi land out of it is Ac.2508.65 cents. As per Andhra Pradesh Estate (Abolition and Conversion into Ryotwari), Act, 1948, the nature of this village was settled in the year 1957 itself and thus, this Inam Estate was taken over by the Government on 28.10.1964.

5. R.S.No.297 is stated to be a part of Tank Poramboke and this Tank is locally known as 'Kadiyapu Cheruvu', which is an irrigation Tank under the control of Public Works Department, as per the version of the fourth respondent - Tahsildar of Tadepalligudem in the counter.

6. The petitioner is claiming that this extent of Ac.8.85 cents belonged to her, which she has been in possession and enjoyment for a long period. This extent was sold to her by one Sri Elisetty Apparao under an agreement for sale on 04.10.1964. It was registered in the name of the petitioner under registered sale document No.910 of 1969 executed by Sri Elisetty Apparao. Sri K.Satyanarayana, was Mokhasadar of this Inam village Kunchanapalli. He sold Ac.8.85 cts now claimed by the petitioner on 24.02.1941 to the vendor of the petitioner under a registered deed, conveying only leasehold rights.

7. A *suo moto* enquiry in terms of Section 3 of A.P. (A.A.) Inams (Abolition & Conversion Into Ryotwari) Act, 1956, was conducted by the Settlement Officer, Eluru, in respect of this land and by his order dated 31.08.1976 held that the petitioner cannot be given a ryotwari patta under Section 15 of the said Act. The petitioner did not file any application for a ryotwari patta under this Act.

8. The petitioner preferred an appeal to the appellate Tribunal under the Act in Appeal No.15 of 1976 for setting aside the afore stated order of the Settlement Officer, Eluru. However, this appeal was dismissed.

9. The decision of the appellate authority was subject matter of Writ Petition No.2592 of 1979 before the then High Court of Andhra Pradesh, at Hyderabad. On the ground that the petitioner was not offered an opportunity in respect of nature and character of this land in the appeal and holding that she was not aware of the character of this land being

decided in *suo moto* proceedings, the finding so recorded by the appellate tribunal was set aside.

10. The question in all these proceedings from the Settlement Officer, Eluru up to the High Court was in relation to correlating old Survey No.99 to RS No.297, or if it related to old Survey No.45. The extent of the entire Tank Bed of Kadiyapu cheruvu is Ac.106.65 cents. The appellate authority recorded a finding that RS No.297 correlated to old Survey No.99 and not to old Survey No.45 and the Settlement Officer did not record a finding as to character of this land. In the order in W.P.No.2592 of 1979 dated 21.02.1984, there is discussion in respect of it. The last paragraph in this order (operative portion) reads as under:

“The criticism of the learned counsel for the writ petitioner is more than justified. The appellate Judge, correlated R.S.No.297 to old Survey Numbers, without giving opportunity to Sesha Kumari. The facts show, why the appeal should not have been filed, is obvious from the state of record. The finding recorded was based upon a village Karnam’s evidence and, no doubt, the petitioner was examined by the Settlement Officer; still, she was not aware that the character of the land is being decided in *suo moto* proceedings. Having regard to these circumstances, since Sesha Kumari was not afforded opportunity, the finding recorded in the impugned order, is hereby quashed. The writ petition is allowed. No costs.”

11. The contention of the petitioner is that after disposal of this writ petition 2592 of 1979, she approached the Settlement Officer, Eluru, on many occasions and that the matter is not resolved. However, according to the respondents in terms of the order in the writ petition, the petitioner did not file an application before the Settlement Officer.

12. Now this extent of Ac.8.85 cents is subject matter of a notification under Section 11(1) of Right to Fair Compensation and

Transparency in Land Acquisition Act, 2013 dated 10.12.2018 and preliminary notification proposals submitted by the third respondent - Land Acquisition Officer cum Revenue Divisional Officer, at Eluru were approved by the District Collector. Thereupon, an enquiry was taken up obviously in terms of Section 15 of the said Act. It is the version of the respondents that notices were issued to the petitioner giving her an opportunity to substantiate her claim of holding title to this land by producing documentary evidence. The notification was issued for the purpose of acquisition of certain lands to construct a summer storage tank to supply drinking water to Tadepalligudem Municipality with Eluru canal as source. This Kadiyapu Cheruvu is a part of this summer storage tank. This work was taken up under Amrut-II Mission for Region and Urban Transformation meant for water supply to entire population of Tadepalligudem Urban Area during summer season.

13. Now, the complaint of the petitioner is that though she was made to attend before the Settlement Officer, Eluru many times, where all her documents were received relating to this property, the enquiry was being postponed on one pretext or the other. She claimed that for 30 years from the date of disposal of the earlier writ petition, her possession was recognized and that she was in possession and enjoyment of this land even prior to 1979. She further contended that revenue authorities also mutated her name in adangals and it is reflected in 1-B Register. She further claimed that her name figured in title deed 'e' pass book and that she got sunk a borewell for irrigation purpose in this land. She also claimed that she was given an electricity connection and she is being supplied electricity, free of charge. Thus, she asserted possession and enjoyment of this land in her own right. On such premise, she complained that her possession and enjoyment is being

interfered with by the respondents and required protection by an order of this Court.

14. On behalf of the respondents, the fourth respondent filed a counter affidavit resisting the claim of the petitioner and disputing her version of holding this land as rightful owner. The claim of the petitioner as set out of alleged purchase of the land, which ultimately became subject matter of enquiry before the Settlement Officer, the Appellate Tribunal, and in W.P.No.2592 of 1979 including the order passed thereon enabling the petitioner to approach the Settlement Officer, are admitted. The respondents also questioned her claim to this land stating that it is a part of Tank Poramboke and the registered sale deed in her favour for this land refers to survey number 137 as if correlating RS No.297, which is against the correlation statement prepared by the surveyor on 15.07.1973 and certified by the then Assistant Director, Surveys and Land Records, Eluru, on 19.07.1973 where old survey No.99 is correlated to RS No.297 describing as Kadiyapu Cheruvu, for an extent of Ac.8.85 cents.

15. The respondents also contended that the Irrigation Department of Government of Andhra Pradesh stated in its letter dated 18.07.2017 that this Kadiyapu Cheruvu is in an extent of Ac.54.93 cents including RS No.297. There is also reference to an instance, where a claim of one of the encroachers of this Tank Bed was rejected when it was forwarded by the Office of Chief Minister, to the District Collector, Eluru, of West Godavari stating that this Kadiyapu Cheruvu is an Irrigation Tank Poramboke and assignment of pattas in this land is prohibited.

16. The respondents further contended that taking advantage of the order in Writ Petition No.2592 of 1979, since the petitioner managed the then Village level Revenue Officers, her name was entered in the

adangals and a notional katha number was assigned. They also disputed her claim of issuance of pattadar pass book and title deed stating that they were never issued and that the request of the petitioner for mutation of her name in the revenue records was time and again rejected by the revenue authorities. It is also claimed that this land is not under cultivation and is lying fallow. It is also stated that the borewell is not put to use, which is also reflected in the bill issued for the electricity connection.

17. It is the further contention of the respondents that under Section 11(1) of Right to Fair Compensation and Transparency in Land Acquisition Act, 2013, a notice was issued by the third respondent since she had already raised a claim, to the petitioner by way of abandoned caution. Thus, taking advantage of this notice according to the respondents, suppressing the facts, the petitioner approached this Court with unclean hands. It is further stated that the construction of summer storage tank at Tadepalligudem using water from Eluru Canal with a part of Kadiyapu Tank under Amrut-II scheme, is by following due process of law and following the provisions of Right to Fair Compensation and Transparency in Land Acquisition Act, 2013.

18. Sri R.K.Acharyulu, learned counsel for the petitioner and learned Government Pleader for Revenue for the respondents addressed arguments in terms of the pleadings set out.

19. On behalf of the petitioner, provisions of A.P.(A.A.) Inams (Abolition & Conversion in to Ryotwari) Act, 1963 and Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, are referred to.

20. Now, the point for determination is, "Whether the petitioner is entitled for the protection by an order of the nature requested in this

writ petition and if the respondents are trying to interfere with alleged possession and enjoyment of the land claimed by the petitioner in RS No.297 of Ac.8.85 cents of Kunchanapalli village?”

21. **POINT:** The enquiry relating to issuance of title under A.P.(A.A.) Inams (Abolition & Conversion in to Ryotwari) Act, 1956 before the Settlement Officer - Appellate Authority and ultimately in W.P.No.2592 of 1979, indicate that the petitioner asserted her claim to this extent of Ac.8.85 cents in RS No.297 of Kunchanapalli village. The basis for this assertion is her possession and enjoyment of this land. She seeks to support such assertion relaying on a copy of adangal dated 02.01.2020 relating to fasli 1429 (2019-20) for this land issued on-line through ‘Mee Seva’ by the office of the fourth respondent. The contents of it are that the nature of this land is a wet land and a Tank Bed. ‘Pattadar’ described therein is in the name of the petitioner and also as an ‘enjoyer’ under LD patta of an extent of Ac.8.85 cents. Extract of 1-B Register relating to Record of Rights dated 02.01.2020 issued by the same authority discloses the name of the petitioner as ‘pattadar’ relating to this land in Sy.No.297 of Ac.8.85 cents and describing as a wet land.

22. The version of the respondents in issuing notice under Section 11(1) of Right to Fair Compensation and Transparency in Land Acquisition Act, 2013, is also indicative of and supporting this claim of the petitioner.

23. However, the claim of the petitioner as pattadar, being a disputed fact, cannot be treated as a proof or admitted fact. It is not necessary in this writ petition to go into such disputed questions of fact.

24. The principal contention of the petitioner is that her possession and enjoyment of this land is for over 30 years, which is settled and is

being interfered with by the respondents without resorting to due process of law.

25. In this context, to know the veracity the claim so made by the petitioner, it is desirable to extract para - 7 of her affidavit in this writ petition hereunder:

“I, further submit that, recently the respondents visit my schedule property without serving any notice to me and preparing for assign my property constructing a water storage tank under the Amrutha Scheme of the Government. As that the 2<sup>nd</sup> respondent and 3<sup>rd</sup> respondent serving notice to me that recognizing I have been in possession over the property and inviting objections if any U/s 15 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (RFCTLARR Act 2013). The act itself nearly noticed that notification has been issued U/s 11 and that aggrieved person objections shall be taken in to consideration in respect of acquisition and also in respect of compensation awarded the assigner, and very surprisingly the authorities did not wished to heard my grievances as if my property was under assigned as such I became landless poor and my livelihood will be shortened and me and my family existing will be defeated. The act itself legislated for the benefit of the losers for proper rehabilitation in the event of assigner does not defeated in any act of legislation and to be rehabilitated property by granting adequate compensation apart from that arranging equal land for the livelihood of the assigners, neither the things happened to adopt by the respondents 2 and 4 and aversely acted and thereby petition became victim in the highhanded acts of the respondent. Simply serving a notice and disclosing that offering objections without proper circulation of mode of rehabilitation is absolutely defeating the rights my rights.

As per the report of the LAO and Revenue Divisional Officer, Eluru the land is under possession of the notified



landowner Smt.Uppuluri Sesha Kumari through the Settlement Patta for an extent of Ac.8.85 cents, in Rs No.297 of Kunchanapalli (V) and the objectors have not produced any recorded documents to support their claim over the land.”

26. It is also stated in para-8 of this affidavit as under:

“..... Therefore, if any case my property taken over for the purpose of Government and the respondent shall follow due procedure of law as contemplated under the assignment act, but they did not follow such procedure and finally came in to picture the act RFCTLARR Act 2013. ....”

27. These averments in the affidavit would support the version of the respondents that proceedings have been initiated under Right to Fair Compensation and Transparency in Land Acquisition Act, 2013. Reference to Section 15 of this Act in the above paragraph of the affidavit is establishing that the procedure under the above Act is being followed, and that an opportunity has been given to the petitioner in the enquiry contemplated under Section 15 of this Act.

28. In these circumstances, the inference to draw is that the stand of the respondents that due procedure is being followed in acquiring this land is vindicated.

29. Obviously, after such proceedings were initiated by the respondent authorities through the third respondent, the petitioner filed this writ petition complaining as if her possession of this land is being attempted to be disturbed without recourse to due process of law.

30. Learned counsel for the petitioner strenuously contended that in terms of Right to Fair Compensation and Transparency in Land Acquisition Act, 2013, under Section 11, at the stage of issuing preliminary notification, summary of the social impact assessment report should be notified and it is also necessary in terms of this Act to provide

for rehabilitation and resettlement under Section 43 of this Act. In the absence of any effort in notifying these instances, it is contended that it is a case where fair procedure was not followed, and in accordance with law. Support is sought to be drawn in this respect relying on an order in W.P.No.3441 of 2020 dated 14.02.2020 of one of the learned single Judges of this Court where reliance is placed in ***RAME GOWDA (D) BY LRS. V. M.VARADAPPA NAIDU (D) BY LRS & ANOTHER<sup>1</sup>, RAM RATTAN v. STATE OF UTTAR PRADESH<sup>2</sup>*** and ***MUNSHI RAM v. DELHI ADMINISTRATION<sup>3</sup>***.

31. Learned Government Pleader for Revenue referring to facts and circumstances in this case based on the material, contended that this writ petition is nothing but a mischievous attempt on the part of the petitioner suppressing the truth and facts and whereby a scheme for supply of water to Tadepalligudem Municipality is stalled particularly, on account of interim order of *status quo*. It is further contended by learned Government Pleader for Revenue that the attempt of the petitioner cannot be encouraged and the nature of relief sought in fact is to question the land acquisition proceedings initiated before the third respondent - Land Acquisition Officer, that cannot be interdicted having regard to the laudable object and purpose for which the land is being acquired and more so when the petitioner is a pattadar of this land or its owner.

32. The contention of learned Government Pleader for Revenue has to be accepted. The intended and real purpose manifested from para - 7 of the affidavit of the petitioner of this writ petition extracted above is only to question the land acquisition proceedings pending before the

---

<sup>1</sup> (2004) 1 SCC 769

<sup>2</sup> 1975 AIR 1674 = 1975 SCR 299

<sup>3</sup> 1968 AIR 702 = 1968 SCR (2) 408

third respondent - Land Acquisition Officer. When these proceedings are continuing, the petitioner obviously attempted to interdict approaching this Court in a camouflaged manner seeking a relief as if she is being subjected to such methods by extra judicial means, by the respondent authorities.

33. Therefore, the approach of the petitioner is not with clean hands and suppressing the material and true facts. This tendency cannot be encouraged.

34. If at all the petitioner has any grievance or material to place in support of her contention, she could have done so, before the third respondent - Land Acquisition Officer. However, it should be borne in mind that in terms of Section 15(1) of the said Act, such objection should necessarily be filed within sixty (60) days from the date of publication of the preliminary notification.

35. Therefore, the writ petition is not maintainable nor the nature of relief can be granted in as much as through the third respondent - Land Acquisition Officer, proceedings are initiated in terms of Right to Fair Compensation and Transparency in Land Acquisition Act, 2013, reflective of following due process of law. By no means, it can be stated that the respondents violated any of the rights of the petitioner in respect of the property claimed by her requiring interference of this Court under Article 226 of Constitution of India nor it is a case, where consideration of effect of Article 300-A of Constitution of India is necessitated. It is not a case of depriving the right of the petitioner to the property otherwise than by due process of law. Consequently, this writ petition has to be dismissed.

36. In the result, this writ petition is dismissed. Interim order of *status quo* granted on 28.07.2020 and extended until further orders by

an order dated 01.10.2020 stands vacated. No costs. All pending petitions, stand closed.

**Dt:31.03.2021**  
Rns

---

**M. VENKATA RAMANA, J**

**HON'BLE SRI JUSTICE M. VENKATA RAMANA**

**W.P.No.No.12383 OF 2020**

**Date: 31.03.2021**

Rns