

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WRIT PETITION NO.4618 of 2008

Between:

K.Ramu S/o Krishnamurthy

...Petitioner

AND

The Deputy Collector and Mandal Revenue Officer, Rajendranagar
Mandal, Ranga Reddy District and three others

...Respondents

WRIT PETITION NO.4760 of 2009

Between:

K.Jyothi W/o K.Ramu

...Petitioner

AND

1. The Deputy Collector and Mandal Revenue Officer,
Rajendranagar Mandal, Ranga Reddy District and three others

...Respondents

**COMMON JUDGMENT PRONOUNCED ON: 15.03.2023
SUBMITTED FOR APPROVAL:**

THE HON'BLE SRI JUSTICE K.SARATH

1. Whether Reporters of Local : Yes/No
newspapers may be allowed to see
the Judgment ?
2. Whether the copies of judgment : Yes/No
may be marked to Law
Reports/Journals
3. Whether Their Lordship/Ladyship : Yes/No
wish to see the fair copy of
judgment

JUSTICE K.SARATH

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THE HON'BLE SRI JUSTICE K.SARATH

+WRIT PETITION NO.4618 of 2008

%Dated 15.03.2023

K.Ramu S/o Sri Krishna Murthy

...Petitioner

AND

\$ 1. The Deputy Collector and Mandal Revenue Officer,
Rajendranagar Mandal, Ranga Reddy District

...Respondents

+WRIT PETITION NO.4760 of 2009

%Dated 15.03.2023

K.Jyothi W/o K.Ramu

...Petitioner

AND

\$ 1. The Deputy Collector and Mandal Revenue Officer,
Rajendranagar Mandal, Ranga Reddy District

...Respondents

! Counsel for Petitioners : Sri Satha Karni K.

^ Counsel for Respondent: Sri Harender Pershad,

Learned Government Pleader for
Advocate-General,

< GIST :

> HEAD NOTE :

? Cases referred :

1. 2014 SCC Online, AP 431: (2014) 2 ALT 1
2. 2018 SCC Online Hyd 264: (2018) 3 ALT 722
3. 2022 (6) ALT 235 (TS)
4. Unreported Judgment (WP No.3146 of 2005 dated 16.12.2010)
5. 2019 SCC Online TS 2074: (2020) 1 ALD 49
6. 2008 (5) alt 313 (DB)
7. 2009 (4) ALT 1 (DB)

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THE HONOURABLE SRI JUSTICE K.SARATH

WRIT PETITION Nos.4618 of 2008 and 4760 of 2009

COMMON ORDER:

1. Heard Sri A.Venkatesh for Sri Satha Karni, Learned counsel for the petitioners in both the petitions, and Sri Harender Pershad, Learned Special Government Pleader for Advocate-General appearing for the respondents.

2. Since the issue involved in both the petitions is one and the same, both the petitions heard together and being disposed by this common order.

Case of the petitioner in WP No.4618 of 2008

3. Learned counsel of the petitioner submits that the petitioner has purchased agricultural land admeasuring Ac.2.35 guntas in survey No.131/2, Vettinagulapalli Village, Rajenderanagar Mandal, Ranga Reddy District from its lawful owner Sri Pattela Nageshwara Rao through registered sale deed dated 19.10.2000 for a valuable consideration. The vendor of the petitioner purchased the

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same from its original pattedar Sri Dasari Rajaiah through a registered sale deed dated 04.02.1993 and 08.06.1993. At the time of purchasing, the petitioner got verified revenue records and also verified with the registration authorities i.e., District Registrar, Ranga Reddy before purchasing the same as to whether there is any prohibition of registration either under the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 or under any other proceedings or law. The registering authority has informed that the land is not an assigned land. Being satisfied in all aspects, the petitioner purchased the said land from his vendor. While it being so, the Respondent No.1, without issuing any notice to the petitioner issued resumption proceedings under A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 in respect of the suit scheduled land through Proc.No. B/6960/2/2004 dated 21.06.2005 on the ground that land is an assigned land and the same has been transferred to the petitioner in violation of the conditions of assignment.

Case of the petitioner in WP No.4760 of 2009

4. Learned counsel of the petitioner submits that the petitioner has purchased agricultural land admeasuring Ac.1.20 guntas in survey No.130/2, Vettinagulapalli Village, Rajenderanagar Mandal, Ranga Reddy District from its lawful owner Sri Pattela Nageswar Rao through a registered sale deed dated 19.10.2000 for a valuable consideration. The vendor of the petitioner purchased the same from its original pattedar Sri Mangalram Laxmaiah, registered sale deed dated 01.11.1992. At the time of purchasing, the petitioner got verified revenue records and also verified with the registration authorities i.e., District Registrar, Ranga Reddy before purchasing the same as to whether there is any prohibition of registration either under the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 or under any other proceedings or law. The registering authority has informed that the land is not an assigned land. Being satisfied in all aspects, the petitioner purchased the said land from his vendor. While it being so,

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the Respondent No.1, without issuing any notice to the petitioner issued resumption proceedings under A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 in respect of the suit scheduled land through Proc.No. D/2354/2002 dated 14.10.2005 on the ground that land is an assigned land and the same has been transferred to the petitioner in violation of the conditions of assignment.

5. Learned counsel of the petitioners submits that the petitioners in both the petitions purchased agricultural lands admeasuring from its lawful owner Sri Pattela Nageshwara Rao through registered sale deeds dated 19.10.2000 for a valuable consideration. The vendor of the petitioner in WP No.4618 of 2008 had purchased the same from its original pattedar Sri Dasari Rajaiah through a registered sale deed dated 04.02.1993 and 08.06.1993, and vendor of the petitioner in W.P.No.4760 of 2009 purchased from its original owner Sri Mangalaram Laxmaiah. At the time of purchasing, the petitioners got verified revenue records and also verified with the registration authorities

i.e., District Registrar, Ranga Reddy before purchasing the same as to whether there is any prohibition of registration either under the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 or under any other proceedings or law. The registering authority has informed that the land is not an assigned land. Being satisfied in all aspects, the petitioners purchased the said land from their respective vendors.

6. The learned Counsel for the petitioners submits that, while it being so, the Respondent No.1, without issuing a notices to the petitioners issued proceedings under A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 in respect of the suit scheduled land through Proc.No. D/2354/2002 dated 14.10.2005 to the petitioner in W.P.No.4618 of 2008 and Proc.No.D/3609/2006 to the petitioner in W.P.No.4760 of 2008 on that ground, that the subjects lands are assigned lands and the same have been transferred to the petitioners in violation of the conditions of assignment.

7. Learned counsel for the petitioners submits that the respondent No.1 has passed the said orders without any notice to the petitioners or even without causing any enquiry to them. Against the said orders, the petitioners preferred appeals and before the Respondent No. 2 and the same were dismissed by the Respondent No. 2 through Proc.No.D/2770/2005 dated 27.12.2005 and Proc.No.D/3609/2006 23.05.2007 respectively. Against the said orders, the petitioners in both the petition preferred revisions before the Respondent No. 3 and the same were also dismissed by confirming the orders by the respondent Nos.1 and 2 on 15.12.2007 and 31.01.2009 respectively. Against the said orders, the present Writ Petitions are filed.

8. The Learned counsel for the petitioners further submitted that the impugned orders passed either by the Respondent No.1 or by the Respondent No. 2 in appeal (or) by the Respondent No. 3 in revision, no specific proceedings under which the land was assigned and the date on which the same has been assigned was not specified. The revenue

records pertaining to the last more than 50 years shows that the lands in question are not an assigned lands, but the same are patta lands duly transferred from pattedars namely Mr. Dasari Rajayya and Mangalaram Laxmiah to Pattela Nageshwara Rao and thereafter to the petitioners from Pattela Nageshwar Rao. The Respondent No.1 having issued pattedar passbooks *vide* patta No.543 - Passbook No. 274751 in relation to the scheduled land in W.P.No.4618 of 2008 and issued pattedar passbooks *vide* patta No.542 - Passbook No. 274927 in relation to the scheduled land in W.P.No.4760 of 2009 in favour of the vendors of the petitioners and the respondent Nos.1 to 3 have no authority to exercise powers under A.P. Assigned Lands (Prohibition of Transfers) Act, 1977. The Respondent Nos.2 and 3 have failed to see that the Respondent No.1 has passed the orders behind the back of the petitioners without any notice or without causing any enquiry as such the orders are liable to be set aside.

9. Learned counsel for the petitioners further submits that the Respondent No.1 has passed the impugned orders even without looking into the survey number of the subject land in issue. The Respondent No.1 has left all the blanks while answering the issue 2 and 3 with respect to the file number of assignment. In impugned orders, it clearly shows that without any explanation from the petitioners passed eviction orders against the petitioners and the same are liable to be set aside.

10. The Learned counsel of the petitioners further submits that no notice under Form-II was issued to the petitioners and the blanks left in the impugned orders for the same. The respondent Nos. 2 and 3, without considering the grounds raised by the petitioners in the appeals and revisions and mechanically confirmed the orders passed by the Respondent No.1 is arbitrary and illegal and requested to allow both the Writ Petitions.

11. The Learned counsel for the petitioners relied on the following judgments:

- 1) *SunkaraSujana Vs District Collector & Others*¹**
- 2) *C. Suresh Rayud Vs jt Collector RR District & Other*²**
- 3) *G.Shankar Reddy Vs The Revenue Divisional Officer, Karimnagar & Others*³**
- 4) *Munagal Pitchi Reddy Vs The Mandal revenue Officer Kondapuram Mandal Nellore District*⁴**
- 5) *Renew Wind Energy (TN2) (P) Ltd Vs State of Telangana*⁵**
- 6) *Letter sent from Plot No.338 and Other Vs The Collector and District magistrate and Others*⁶**
- 7) *Joint Collector and Others Vs P harinath Reddy and Others*⁷**

12. Learned Special Government Pleader appearing for the Respondents submits that as per the sethwar, the land

¹ 2014 SCC OnLine AP 431 : (2014) 2 ALT 1

² 2018 SCC OnLine Hyd 264 : (2018) 3 ALT 722

³ 2022 (6) ALT 235 (TS)

⁴ Unreported Judgment (W.P.No.3146 of 2005 dated 16.12.2010)

⁵ 2019 SCC OnLine TS 2074 : (2020) 1 ALD 49

⁶ 2008 (5) ALT 313 (DB)

⁷ 2009 (4) ALT 1 (DB)

bearing in Sy.No.131 and 130, total extent of Ac.15.04 guntas and Ac.17.27 guntas situated at Vattinagulapally Village, Gandipeta Mandal, Ranga Reddy District is recorded as "Poramboke-Sarkari" i.e., Government land. Similarly, Pahani for the year 1958-59 and 1961-62, it clearly shows that the land is Government land, but not patta land. Subsequently, the said lands have been assigned to the landless poor persons of the village. As per the pahani for the year 1962-63, the said land have been divided into four (4) sub-divisions, and sub-division No.131/2 admeasuring Ac.3.31 guntas and sub-division No.130/2 admeasuring Ac.3.20 guntas have been recorded in the name of one Dasari Chinna Laxmaiah and Mangalaram Laxmaiah respectively and the said land is assigned land.

13. Learned Special Government Pleader further submits that as seen from the records in W.P.No.4618 of 2008, one Sri Dasari Rajaiah S/o Dasari Chinna Laxmaiah has sold the land to one Sri Pattela Nageshwara Rao S/o Late

P.Prakash Rao, *vide* registered document Nos.977/1993 dated 04.02.1993 and 4775/1993 dated 08.06.1993, and as seen from the records in W.P.No.4760 of 2009 shows that Pattela Nageshwar Rao purchased the land an extent of Ac.1.20 guntas in Sy.No.130/2 from the legal heirs of Mangalaram Laxmaiah and the petitioners in both the petitions purchased the said land in contravention of the provisions of A.P. Assigned Lands (Prohibition of Transfers) Act, 1977. The land was assigned to the landless poor persons of the village during the year 1962, i.e., after issue of G.O.Ms.No.1406, Revenue dated 25.07.1958. The petitioners have knowledge of the proceedings before the Deputy Collector and Tahsildar, Rajendra Nagar and the petitioners have filed appeals before the R.D.O, Chevella Division and Revision before the Joint Collector, Ranga Reddy District. The subject lands were already resumed back to the Government *vide* Order dated 25.06.2005 in file No. B/6960/2004 and D/6960/2004 of the then Deputy Collector and Mandal Revenue Officer, Rajendra Nagar

Mandal, and possession of the land was taken over well before the *status quo* orders passed by this Hon'ble Court.

14. The Learned Special Government Pleader further submits that the non-availability of the record of the Tahsildar office does not change the fact of nature of land belongs to the Government, its assignment in the year 1962-63 after Government orders in 1958 wherein revised guidelines were issued on assignment with condition of non-alienation. The land being assigned to land less poor and its alienation to the petitioners by way of a registered sale deed in the year 2000. The petitioners herein do not get any right or title over the land by virtue of the said purchase. The petitioners herein are not entitled for any relief as sought for and these Writ Petitions are liable to be dismissed.

15. At the time of arguments, this court directed, the respondents to produce the records with regard to the petition/reply submitted by the petitioners as mentioned in

the impugned orders dated 21.06.2005 and 14.10.2005. On 13.12.2022, the Special Government Pleader appearing for the respondents stated that there is no record available in respect of the impugned proceedings and informed the court that the respondents will file the affidavit to that effect. But the respondents have filed counters on 19.12.2022 without mentioning the same stated that the non-availability of the record of the Tahsildar office does not change the fact of the nature of the land belongs to the Government. It is clearly shows that the respondents unable to produce the records when the notices were issued to the petitioners before resumption of lands.

16. After hearing the both sides, this Court is of the considered view that admittedly the petitioners in both the writ petitions purchased the property through registered documents. In the impugned orders, the primary authority recorded that the petitioners submitted the petition/reply with nil date, through their counsel and wherein the petitioners admitted that they have purchased the

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assigned land through registered sale deeds without any document number and date (i.e., blank).

17. The respondents stating that the land belongs to the Government classified as “Poramboke Sarkari” and was assigned to various landless poor persons as such it is “Loani Patta” i.e., assigned land but not patta land. On the other hand, the petitioners submitted Memo on 05.12.2022 along with material papers pertaining to letters issued by the Deputy Collector and Tahsildar, Rajendra Nagar Mandal in Record No.C/696/2000 dated 27.09.2000 and Record No.C/746 /2000 dated 17.10.2000 and stated that records not available for the Pahani for the year 1954-1955 and Faisal Patti duplicate copies for the year 1961-1962 pertaining to Sy.No.131/2 and 130/2 in Vattinagulapalli Village and also register for the year 1950. Moreover, the respondent No.1 has issued Patta pass-book to the vendors of the petitioners’ through Patta No.543 and 542 respectively.

18. The respondent No.1 passed impugned resumption orders without following the procedure contemplated under the Telangana Assigned Land (POT) Act, 1977 and there are so many blanks left-over in the impugned orders. The respondents failed to produce the records pertaining to the impugned orders and it is clearly shows that the respondent No.1 without issuing notices in Form-I and Form-II and without any reply/petition by the petitioners passed the impugned orders and the same were upheld by the respondent Nos.2 and 3.

19. The Judgments relied by the Learned counsel for the petitioners squarely apply to the instant case.

In ***Renew Wind Energy (TN2) (P) Ltd Vs State of Telangana*** (supra 5) this Court held at para 6, as follows:

“6. Having regard to the law laid down by this Court in the above decision followed in W.P.No.13973 of 2017, dated 28.04.2017, what is required to be understood is that when show cause notice in Form-I and Form-II is issued, it should also contain all the details as to whether the land is classified as ‘Government land’, and if so, when it was assigned, with what conditions it was assigned, what extent was assigned and to whom it was assigned

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and then call upon the assignee/occupier /purchaser to submit his explanation. In view of the settled principle of law, as these basic details are not furnished, the order impugned is not sustainable. As the order is ex facie not sustainable, the Court is not inclined to keep the Writ Petitions pending”.

As per procedure, the notice under Form-I has to be issued to the Assignee(s) and notice in Form-II has to be issued to the purchasers, who are in enjoyment of the Property. In the instant case no notices under Form-II were issued to the petitioners, and therefore, the impugned orders are liable to be set aside. The impugned orders clearly shows that the respondent No.1 even without looking into the Survey number and extent of the subject Land in issue and passed orders. The survey number and extent of the subject land in W.P.No.4618 of 2008 in issue is 131/2 and Ac.2.35 guntas but whereas the respondent No.1 has discussed about Sy.No.145/6 at Para No.3 of the impugned order, where as the petitioners are no way concerned with the said extent or survey number.

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20. In *SunkaraSujana Vs District Collector & Others*

(supra 1) this court held as follows:

“Even assuming that the land was originally assigned under laoni patta, unless the said patta contains a condition prohibiting alienation, the assignee under such patta is entitled to sell the land”. Further held that “Having allowed the parties to sell the subject property from time to time, the respondents have acquiesced in raising the plea that the subject land belongs to the government at this length of time”.

In the instant case also the respondents are failed to produce any assignment patta under Laoni Rules and without record basing on assumption and presumption passed the impugned orders.

21. In *M/s Rane Engine Valve Limited Vs The District*

Collector⁸ this Court held at para 13, as follows:

“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”.

⁸ Unreported Judgment (W.P.No.8327 of 2008 dated 16.12.2022)

22. The respondent No.1 passed impugned orders with blanks with respect to the file numbers of the alleged assignment details pertaining to the subject property and also blanks about representation/reply of the petitioners and wrong mentioning of survey number clearly shows that the respondent No.1 passed the said orders mechanically without any application of mind.

23. The provisions of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 (Act No.9 of 1977) will no application to the alienation of pattas/occupancy rights granted under Laoni Rules or under Revised Assignment Policy issued in G.O.Ms.No.1406 dated 25.07.1958. Since the said Act prohibits transfer of assigned land which is defined under Section 2(1). Laoni Rules as well as the rules issued under G.O.Ms.No.1406 dated 25.07.1958 deal with two types of assignments, i.e., assignment on payment of market value and assignment to the landless poor persons. Without any record, the respondents cannot declare that the subject lands are assigned lands and the same is in violation of the

A.P Assigned Land (POT) Act, 1977 and also the same is contrary to the available records. If the land assigned to landless poor persons under Laoni Rules, there must be condition of non-alienation as per settled law, otherwise it cannot be declared as void transaction. In the instant case, the respondents failed to produce any document or any record with regard to the assignment.

24. In the instant case, the respondents have not followed the Rules, contemplated under the Telangana Assigned Land (POT) Act, 1977 and without any notice to the petitioners and without any application of mind passed resumption orders prepared by the office of the respondent No.1, and the same were upheld by the appellate authority i.e., the respondent Nos.2 and 3. In view of the same the impugned orders of resumption of the subject lands issued by the respondent No.1 in Proc.No.B/6960/2/2004 dated 21.06.2005 and Proc.No.D/2354/2002 dated 14.10.2005 respectively consequential orders issued by the respondent Nos.2 in Proc.No.D/2770/2005 dated 27.12.2005 and

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No.D/3609/2006 dated 23.05.2007 respectively, and the respondent No.3 in Procg.No.E1/1368/2006 dated 15.12.2007 and Case.No.E1/4142/2007 dated 31.01.2009 respectively are liable to be set aside, accordingly set aside.

25. In view of the above findings, both the Writ Petitions are allowed. There shall be no order as to costs.

26. Miscellaneous petitions pending, if any, shall also stand closed in both the petitions.

JUSTICE K.SARATH

Date:15.03.2023

Note: LR copy to be marked

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