

**IN THE HIGH COURT OF TELANGANA AT HYDERABAD**

**W.P.No.9084 OF 2009**

**Between:**

Shri Pratap Mohan Lal & others

... **Petitioners**

**And**

State of Telangana & others

... **Respondents**

**JUDGMENT PRONOUNCED ON: 03.06.2024**

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA**

1. Whether Reporters of Local newspapers : Yes  
may be allowed to see the Judgment?
2. Whether the copies of judgment may be : Yes  
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : Yes  
see the fair copy of the Judgment?

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**MRS JUSTICE SUREPALLI NANDA**

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA****W.P.No.9084 OF 2009****% 03.06.2024****Between:**

# Shri Pratap Mohan Lal &amp; others

**... Petitioners****And**

\$ State of Telangana &amp; others

**... Respondents**

&lt; Gist:

&gt; Head Note:

**! Counsel for the Petitioners** : Mr.Ch.Dhanamjaya**^ Counsel for Respondents** : G.P.for Revenue for R1  
G.P.for Assignment for R2  
and R3  
Mr.K.Siddharth Rao, for R4

? Cases Referred:

(1) (1995) Suppl.(1) SCC 596

(2) (2013) 1 SCC 353

**THE HON'BLE MRS. JUSTICE SUREPALLI NANDA****W.P. No.9084 OF 2009****ORDER:**

Heard Mr.Ch.Dhanamjaya, learned counsel appearing on behalf of the petitioners, learned Government Pleader for Revenue appearing on behalf of respondent No.1, learned Government Pleader for Assignment appearing on behalf of respondent Nos.2 and 3 and Mr. K.Siddharth Rao, learned Standing Counsel appearing on behalf of respondent No.4.

**PRAYER:**

2. **The petitioners approached the court seeking prayer as under:**

"...to issue Writ of Mandamus or any appropriate Writ, Order or direction declaring the action of the respondents in not settling the claim of the petitioners for payment of compensation as per the prevailing market value as per the provisions of Act 30 of 2013 and benefits thereunder or hand over the vacant possession of the land measuring 7863.38 square meters equivalent to 9405.22 square yards in Sy.No.59/1/2 and 59/3/1 situated at S.R.Nagar, Yousfuguda, Khairatabad Mandal, Hyderabad to the petitioners pursuant to the proceedings of the Special Officer and Competent Authority, Urban Land Ceiling vide Proceedings No.E2/107 to 112/76 dt.16-02-2006 by considering their representations 15.06.2007, 11.09.2007 and 29.07.2008, as illegal, arbitrary and violative of principles of natural justice and for a consequential order directing the respondents to pay the compensation to the petitioners for the above said land with

interest and damages as per the prevailing market value as per the provisions of Act 30 of 2013 and benefits thereunder in alternative or hand over the vacant possession of the land measuring 7863.38 square meters equivalent to 9405.22 square yards in Sy.No.59/1/2 and 59/3/1 situated at S.R.Nagar, Yousfuguda, Khairatabad Mandal, Hyderabad and pass such order or orders as this Hon'ble Court deems fit and proper."

**3. PERUSED THE RECORD:**

**A) The interim order of this Court dated 19.04.2023**

**passed in the present writ petition No.9084 of 2009, reads as under:**

"The short issue that arises for consideration in this writ petition is, whether the petitioners are entitled for restoration of possession in respect of the land which is declared as retainable land in the urban land ceiling proceedings that were concluded on remand.

The facts of the case are that originally the petitioners are declared as having surplus land to an extent of 6,397.79 sq. meters and possession of the said extent of land is also stated to have been taken over by the State by conducting a panchanama in the year 1985. However, the said proceedings were reversed by the appellate authority and on remand, the petitioners were found to have been holding land only to an extent of 2,060 sq. meters in excess and land to an extent of 4,337.79 sq. meters which was earlier declared as surplus land is now declared as the retainable land of the petitioners.

**As already noted above the entire extent of 6,397.79 sq. meters was taken over by conducting panchanama by the respondent State. Now, the petitioners are seeking either restoration of possession over the land to an extent of 4,337.79 sq. meters to them or for payment of compensation, in the alternative.**

In the circumstances, the respondent Nos.2 and 3 are directed to file an additional counter affidavit explaining the status of the said extent of 4,337.79 sq. meters and also about the possession of the said extent of land as on date by the next date of hearing."

**B) The operative portion of the order of this Court dated 27.11.2002 passed in W.P.No.23277/2002, reads as under:**

**"The particulars relating to the extents of land of the petitioners acquired, point of time and terms and conditions are not evident from the record placed before this court. However from a reading of the notice Dt:16.5.2002 issued by the fourth respondent it is evident that petitioners were required to submit documents in support of their title. It is submitted that the petitioners have complied with the same. That being the situation, if the lands of the petitioners had been taken over by the respondents, the petitioners are entitled to be paid compensation. There cannot be any justification to take over the landed property without paying any compensation. In the circumstances, the writ petition is disposed of directing the respondents to finalize the claim of the petitioners within a period of three months from the date of receipt of a copy of this order. No costs."**

**C) The letter of the Commissioner, MCH dated 03.04.2003 vide letter No.24/ACP/C5/MCH/2003-1389, reads as under:**

"In pursuance of the orders of the Hon'ble High Court Dated 27.11.2002 in W.P.No.23277/2002 your representation Dated 21.6.2002 and 5.2.2002 have been examined and considered **and it is to inform that no land acquisition proceedings were initiated from MCH for road widening.** The MCH cannot acquire the properties/land either suo moto or on applications of the individuals. The MRO, Khairatabad Mandal, in their reference A3/123/2000, Dt:28.3.2000 reported that the Special Officer and Competent Authority, ULC, Hyderabad in his proceedings No.E1/107/76 to F/112/76, Dt:18.5.95 declared an extent of 6397.79 sq.mts as surplus land in Sy.No.59/P correlated to T.S.No.35 & 36, Block-E, Ward-7 of Yousufguda Village, out of which an extent of 2493 sq.mts. has been affected in the road widening."

**D) The relevant portion of the revised orders of the Special Officer and Competent Authority, Urban Land Ceiling, Hyderabad vide Proc. No. E2/107 to 112/76, dated 16.02.2006, is extracted hereunder:**

"The following are declared as surplus landholders: -

1. Smt. Sunitha Devi holds excess land to an extent of 1,424.66 Sq.Mtrs., in Sy.No.59/1/2 and 59/3/1 of Yousufguda village in C.C.No.E2/107/CC/76.

2. Keerath Mohanlal holds excess land to an extent of 1,030.66 Sq.Mtrs., in Sy.Nos.59/1/2 & 59/3/1 of Yousufguda village in C.C.No.E2/111/CC/76.

Final statement U/s.9 of the Act accordingly prepared and sent herewith for service."

**4. The case of the petitioners in brief as per the averments made by the petitioners in the affidavit filed by the petitioners in support of the present writ petition, is as under:**

i) The petitioners are the absolute owners of the land measuring a total extent of 7469.92 sq. mtrs., in Sy.No.59 of S.R.Nagar, Khairatabad Mandal, Hyderabad District and the subject schedule property is an ancestral property. Separate declarations had been filed under the Urban Land Ceiling Act U/s.6 (1) of the Act, in C.C.No.E/107/76 to E1/112/76. Out of the 6 declarants one declarant by name Radhey Mohanlal expired on 03.01.1993 leaving behind his pre-deceased son's wife Dr. Sunitha Devi. Initially the declarants were found to be in excess holders. The elders of the original declarants filed Appeal before the Appellate Authority stating that the property admittedly is an ancestral property and further contended that all the sharers i.e., sons and daughters of

the original declarants who are majors as on 28.01.1976 and accordingly they are entitled to the respective shares as per the provisions under the Act. This was not taken into consideration by the Competent Authority while holding that the original declarants were excess holders. The Appellate Authority in its proceedings dated 10.08.2002 in Urban Land Ceiling Appeal No.Hyderabad/7/99, remanded the matter to the Competent Authority directing it to re-compute the holdings of the respective sharers after giving the opportunity to the sharers for filing their respective statements regarding their age and also other aspects for arriving at a just decision.

ii) The Competent Authority after verification of the records and also the statements submitted by the respective sharers, ultimately found that an extent of 1424.66 sq. mts., and 1030.66 mtrs, belonging to Dr. Sunitha Devi (Radhey Mohanlal's share original declarant) and Keerath Mohanlal (LR of Sham Mohanlal original declarant) in Sy.No.59/1/2, 59/3/1 of Yousufguda Village, relating to C.C.No.E2/107/CC/76 and 111/76, are found to be in excess of their ceiling limits and the rest of the declarants are found to be not excess of their ceiling limits. However, as per



proceedings of the competent authority it is stated that as per the original proceedings whereunder the original declarants are found to be in excess of their ceiling limits, and ultimately the land was taken possession by the Mandal Revenue Officer, Khairatabad Mandal, for road widening purpose and the land is vested with the Government.

iii) It is further the case of the Petitioners that on an earlier occasion Petitioners filed WP No.23277/2002 questioning the action of the Respondents in not settling the claim of the Petitioner in respect of the land admeasuring 12009 sq. yards of Bapunagar, Yousufguda Village, by considering Petitioner's representations dated 21.06.2002 and 05.07.2002 pursuant to the proceedings of the Respondent officials dated 16.05.2002 and the Court vide its order dated 27.11.2002 disposed of the writ petition directing the Respondents therein to finalise the claim of the Petitioner within a period of 3 months from the date of receipt of the order. The Petitioners were informed that the claim applications filed by the LRs of the declarants were pending consideration before the Competent Authority and they could not take up the matter till the matter is disposed by the Competent Authority to ascertain the

extent of land in excess of their holdings. The Respondents in their proceedings dated 03.04.2003 informed the Petitioners that no land acquisition proceedings are initiated by them for acquisition of the land for the purpose of road widening and out of the land admeasuring 7469.92 sq. mtrs., declared surplus by Urban Land Ceiling Authority dated 31.01.1994 out of which an extent of 2493 sq. mtrs., had been effected in road widening.

iv) It is further the case of the petitioners that after disposal of petitioners claims before the Competent Authority in the year 2006, petitioners made several representations to the respondents on 15.06.2007, 11.11.2007 and 29.07.2008 enclosing the copies of the orders of the Competent Authority and also the order of this Court in W.P.No.23277/2002 dated 27.11.2002 requesting the respondents to settle petitioners long pending claim. Aggrieved by the inaction of the Respondents in settling Petitioners lawful claims in respect of the land that was taken possession by the Respondents for various purposes without paying the compensation till date as per the prevailing market value, as per the provisions of the Act 30 of 2013 and benefits there under or handover the vacant possession of the land measuring 7863.38 sq.

mtrs., equivalent to 9405.22 sq. yards in Sy.No.59/1/2 and 59/3/1 situated at SR Nagar, Yousufguda, Khairatabad Mandal, Hyderabad to the petitioners pursuant to the proceedings of the Special Officer and Competent Authority, Urban Land Ceiling vide Proc.No.E2/107 to 112/76, dated 16.05.2006 by considering petitioners representations dated 15.06.2007, 11.09.2007 and 29.07.2008, the petitioners filed the present writ petition.

**5. The counter affidavit has been filed on behalf of Respondents No.2 and 3 and Additional Counter affidavit has been filed by Respondent No.3 – Para 5, 6, 7 of the additional counter affidavit reads as under:**

5. It is Humbly submitted that at the time of Revision of the 8(4) orders it was only considered share of the sons and daughters of the declarants as the property is ancestral property as per the orders of the CCLA and their shares are decided basing on the family particulars given and not dealt with whether the land is vacant and any third-party interest is there on the land.

Further the notifications U/s 10(1) & 10(3) of the Act have been issued on 4.04.2006 & 26.04.2006 respectively and 10(5) was issued to the declarants on 18.12.2006 for handing over the surplus land. Further, on the 10(5) -notice issued to the L.R's of the declarants, the GPA of the L.R's filed a representation before the CCLA on 17.01.2007 informing that the so-called surplus land acquired by the MCH under

slum improvement Act on 10.09.1987 and issued pattas also during 1990 for long standing dwellers (Bapunagar) Lambada's living there since more than a century and also enclosed patta, Gazette publication. They further submitted that once the MCH acquired the land in Sy.No. 58,59 & 60 for an extent of 44,360 Sq. Yds including surplus land in Sy.no.59 the ceiling authority cannot acquire the same land and also pattas issued by R.D.O in File No. D/1234/90 for long dwellers Lambadas since more than century by which Urban Land Ceiling authority entire proceedings in CC.No. No.E1/107 to 112/76 Dt.31.01.1994 goes wrong. They also informed that in this case land acquisition already done and pattas are also issued long back in 1990.

As the matter stood thus the Tahsildar, Khairatabad through his letter No.C/109/2010 Dt.13.10.2010 informed the District Collector Hyd, by marking a copy to the S.O & CA, ULC informed that the appellant has concealed the facts and misrepresented the facts before the S.O. & CA of ULC and obtained fraudulent orders. And in this connection the Executive Engineer Housing Board Submitted a LGC order in 22/96 and 10/2000 which were filed by V.Satyanarayana and Prithvi Raj Chauhan against AP Housing Board, after trial it was dismissed and confirmed the title of the APHB. In the above said LGC the Dy. Director, Survey and Land Records was also appointed as Commissioner and he demarcated the land and confirmed that the said bit of land is part of acquired land. The above facts are not in this office records as this office is not party to the said legal Proceedings. Against which they filed W.P.No.13831/2004 and 13832/2004 and Hon'ble High Court pleased grant to "Status quo". In view of above the NOC cannot be considered, and requested the SO, ULC also may be requested to cancel the said orders.

Further the vice Chairman and Housing Commissioner through their Lr.No.14167/J6/95 Dt. 09.12.2010 requested to

withdraw the proceedings issued vide No.E/107 to 112/76 Dt.16.02.2006. Since the land acquired by A.P. housing Board under Land Acquisition Act and the same is under possession of A.P. Housing Board ever since from the acquisition in the year 1962.

6. Further it is humbly submitted that this shows that the petitioners have sold out the lands in Sy No. 59 of Yousufguda Village to third parties during the pendency of the proceedings. As mentioned in the above paras, the declarants created third party interests by selling/gifting the subject ceiling case lands. Further as informed by the declarants the GHMC notified the land in Sy.No.59 along with Sy.No.58 and 60 as slum and taken possession of the land. As per the objection petition filed by the declarants on 8(1) orders of the S.O. & CA, ULC it is mentioned that as per rules of PWD they had to surrender about a portion of their land for extension of National High Way. As such the Mandal Revenue Officer not taken possession of the land for Road Widening purpose as contended by the writ Petitioner. Further at the time of taking possession in 1995 itself, the land is covered by complete structures and there is no vacant land. Further, the Physical possession of the land is with the third parties only. Hence the writ petitioners are put to strict proof that they are still owners of the suit scheduled land.

**7. It is humbly submitted that as already informed in the pre-paras the declarants created third party interest over the subject land by selling the lands and gifting the lands and when the E.O went to conduct Panchanama in 1995 itself the land is covered by structures. The declarants informed this authority that they sold the land to tenants and gifted the land etc and hence the physical possession is vested with the third parties only."**

6. The learned Government Pleader placing reliance on the averments made in the counter affidavit and additional counter affidavit prayed for dismissal of the writ petition.

7. Reply affidavit has been filed by the petitioners denying the averments made in the counter and additional counter of the respondents.

**DISCUSSION AND CONCLUSION:**

8. A bare perusal of the record indicates that there are specific observations in the order dated 27.11.2002 passed in W.P.No.23277/2002 in favour of the Petitioners observing that if the lands of the Petitioners had been taken over by the Respondents, the Petitioners are entitled to be paid compensation and further observation that there cannot be any justification to take over the landed property of the petitioners without paying any compensation to the petitioners and the writ petition is disposed with a clear positive direction directing the Respondents to finalise the claim of the petitioners within a period of 3 months from the date of receipt of the copy of the order.

9. A portion of the counter affidavit filed by Respondents No.2 and 3 indicates that the matter has been enquired by Assistant Manager, Survey and Land Records who had reported that the retainable and surplus land in CC No.E/107 to 112/76 is forming part of the land acquired for A.P. Housing Board. The said counter affidavit also admits that as per the revised orders U/s.8(4) dated 16.02.2006 and 10(6) orders dated 17.04.2007 surplus land to an extent of 2061.32 sq. mtrs., in Sy.No.59/1 and 59/3 of Yousufguda Village only is declared as surplus and saved under Repeal Act in CC No.E2/107 to 112/76 and the applicant was also informed that the retainable land will be retained with declarants only and SO and CA or the enquiry officer may not handover retainable area to the declarants in any case, since revised 8(4) orders passed by the SO and CA, ULC through proceedings No.E2/107 to 112/76 dated 16.02.2006 declared 4 declarants out of 6 declarants as non-surplus holders and 2 declarants Smt. Sunitha Devi and Sri Keerath Mohanlal are declared as surplus holders to an extent of

1424.66 sq. mtrs., and 1030.66 sq. mtrs., in Sy.No.59 in CC No.E2/107 to 112/76.

10. A bare perusal of the proceedings dated 03.04.2003 addressed to the GPA Holder of R.Dashrath Mohanlal by the Commissioner, MCH vide Lr.No.24/ACP/C5/MCH/2003 - 1389, Hyderabad, clearly indicates that the Commissioner, MCH observed in the said letter that with regard to compensation of claim of Sri Deeplal Chauhan it is to inform that he had purchased a house from Sri Mohanlal and others who are owners of Sy.No.59/1/2 and 59/3/1 of Yousufguda Village and these lands were declared as surplus land and it is not clear from the registered document No.1378/74, dated 20.04.1974 whether he had purchased 592 sq. yards in the surplus area or retainable area and moreover the extent covered by road widening had not been indicated. On furnishing the information with regard to widening of NH9 the case will be examined on the claim for payment of compensation.

11. It is the specific case of the Petitioners that in view of the fact that the proceedings of the Special Officer and Competent Authority



dated 18.05.1995 were set aside by the Appellate Authority in reference Hyderabad-8-19/95, dated 03.04.1995 as per the revised orders of the Special Officer and Competent Authority dated 16.02.2006 the area of 2223 sq. yards covered under existing road widening is no longer surplus and compensation is payable to the petitioners as its lawful owners and therefore immediate action needs to be taken for payment of market value for the land admeasuring 2223 sq. yards covered under existing road widening. Petitioners place their claim on the basis of the proceedings of the Special Officer and Competent Authority, Urban Land Ceiling, Hyderabad, dated 16.02.2006, in Proc.No.E2/107 to 112/76 (referred to and extracted above).

**12.** A bare perusal of the contents of the proceedings dated 31.01.1994 vide Proc.No.E1/107 to 112/76, clearly indicate that the Sy.No.59 admeasuring Ac.14.30 gts., of Yousufguda Village, stands patta in the name of Sri Rai Bind Basmi Prasad as per the pahani and spot verification, the extent held by the declarants as on 28.01.1976 is Ac.1.34 gts., i.e., 7485.92 sq. mtrs.

**13.** This Court opines in view of the fact that the land in question had been declared non-surplus as per the proceedings of the

Special Officer and Competent Authority, ULC in its Proc. E2/112/76, dated 16.02.2006 (referred to and extracted above), the Petitioners claim as co-owners of the subject land and their entitlement for compensation for an area of 2493 sq. mtrs., utilized by MCH for road widening of NH-9 needs to be considered as per the directions of this Court dated 27.11.2002 passed in W.P.No.23277/2002.

**14. The Apex Court in the judgment reported in Jilubhai Nanbhai Khachar Vs. State of Gujarat reported in (1995) Suppl. (1) SCC 596 at para 48 observed as under :**

**“Para 48:** In other words, Article 300-A only limits the power of the State that no person shall be deprived of his property save by authority of law. There (is) no deprivation without (due) sanction of law. Deprivation by any other mode is not acquisition or taking possession under Article 300-A. In other words, if there is no law, there is no deprivation.

**xiii) The right to property is now considered to be not only a constitutional or a statutory right, but also a human right, though it is not a basic feature of the Constitution or a Fundamental Right.** Human Rights are considered to be in realm of individual rights, such as the right to health, the right to livelihood, the right to shelter and employment, etc., now however human rights are gaining and ever greater multifaceted dimension. The right to property is considered very much to be a part of such new

dimension. (Lachman Dass vs. Jagat Ram, 2007 (10) SCC 448, Amarjith Singh vs. State of Punjab 2010 (10) SCC 43, State of M.P. vs. Narmada Bachao Andolan 2011 (7) SCC 639, State of Haryana vs. Mukesh Kumar, 2011 (10) SCC 404, Delhi Airtech Services Pvt. Ltd., vs. State of U.P., 2011 (9) SCC 354).

xiv) The Apex Court in the judgment reported in (2013) 1 SCC 353 in Tukaram Kana Joshi Vs. Maharashtra Industrial Development Corporation at para 8 observed as under :

**“The Apex court held that the claimants were deprived of immovable property in 1964, when Article 31 of the Constitution was still intact and the right to property was a part of Fundamental Rights under Article 19 of the Constitution. It is pertinent to note that even after the right to property ceased to be a fundamental right, taking possession of or acquiring the property of the citizen most certainly tantamount to deprivation and such deprivation can take place only in accordance to ‘law’, as the said word as specifically being used in Article 300-A of the Constitution. Such deprivation can only be by resorting to a procedure prescribed by a statute. The same cannot be done by way of exclusive float or order or administration caprice.**

**15. A bare perusal of the relevant extracts of the counter affidavit filed by the Respondents No.2 and 3, dated 10.02.2023 indicates clear admissions by the Official Respondents herein that as per the revised orders under Sec.8(4) dated 16.02.2006 and 10(6) orders dated**

**17.04.2007 surplus land to an extent of 2061.32 sq. mtrs., in Sy.No.59/1 and 59/3 of Yousufguda Village, is only declared as surplus and saved under Repeal Act in C.C. No.E2/107 to 112/76 and that the retainable land will be retained with the declarants only and the handing over of the retainable area would not arise.**

**16. Taking into consideration :**

- a) The above said facts and circumstances of the case,
- b) The averments made in the counter affidavit filed on behalf of respondent Nos.2 and 3 and additional counter affidavit filed on behalf of respondent No.3,
- c) The proceedings dated 16.02.2006 in Proc.No.E2/107 to 112/76 of the Special Officer and Competent Authority, Urban Land Ceiling, Hyderabad,
- d) The earlier orders of this Court dated 27.11.2002 in W.P.No.23277/2002,
- e) The proceedings dated 03.04.2003 addressed to the GPA holder of R.Dasharath Mohan Lal by the Commissioner, MCH vide Lr.No.24/ACP/C5/MCH/2003-1389, Hyderabad,
- f) The observations of the Apex Court in the judgments reported in i.e.,

(i) (1995) Suppl.(1) SCC 596 in Jilubhai Nanbhai Khachar Vs. State of Gujarat,

(ii) (2013) 1 SCC 353 in Tukaram Kana Joshi Vs, Maharastra Industrial Development Corporation, (referred to and extracted above) that no person shall be deprived of his or her property save as provided by law,

The writ petition is allowed directing the Respondents to consider the representations of the Petitioners dated 15.06.2007, 11.09.2007 and 29.07.2008 and settle the claim of the Petitioners for payment of compensation as per the prevailing market value as per the provisions of the Act 2013 and benefits there under with respect to land admeasuring 7863.38 sq. mtrs., equivalent to 9405.22 sq. yards in Sy.No.59/1/2 and 59/3/1 situated at S.R.Nagar, Yousufguda, Khairatabad Mandal, Hyderabad, pursuant to the proceedings of the Special Officer and Competent Authority, Urban Land Ceiling, vide Proc.No.E2/107 to 112/76, dated 16.02.2006 and as per the observations of this Court in its order dated 27.11.2002, passed in W.P.No.23277 of 2022, within a period of 6 weeks from the

**date of receipt of the copy of the order in accordance with law in conformity with the principles of natural justice by providing an opportunity of personal hearing to the petitioners and duly communicate the decision to the Petitioners.**

Miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

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**MRS JUSTICE SUREPALLI NANDA**

Date: 03.06.2024

**Note** : L.R. Copy to be marked.  
B/o. *Yvkr*