

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

W.P.No.15436 OF 2011

Between:

P.Vijay Kumar & another

... **Petitioners**

And

Government of Andhra Pradesh & 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?

MRS. JUSTICE SUREPALLI NANDA

THE HON'BLE MRS JUSTICE SUREPALLI NANDA**W.P.No.15436 OF 2011****% 03.06.2024****Between:**

P.Vijay Kumar & another

... Petitioners**And**

\$ Government of Andhra Pradesh & others

... Respondents

< Gist:

> Head Note:

! Counsel for the Petitioners : Smt.D.Padmavathi**^ Counsel for Respondents** : G.P. for Revenue for R1 to R3
Sri V.Narasimha Goud, for R4.

? Cases Referred:

(1) 2021 (4) ALD 132

THE HON'BLE MRS. JUSTICE SUREPALLI NANDA**W.P. No.15436 OF 2011****ORDER:**

Heard Smt. D.Padmavathi, the learned counsel appearing on behalf of the Petitioners, learned Government Pleader for Revenue appearing on behalf of respondent Nos.1 to 3 and Sri V.Narasimha Goud, learned Counsel appearing on behalf of respondent No.4.

PRAYER:

2. **The Petitioners approached the Court seeking prayer as under :**

"...to issue a Writ order or direction one more particularly in the nature of writ of Mandamus **i)** declaring the action of the respondents 1 to 3 in seeking to allot the petitioners property admeasuring Ac.500 gts in Sy.No.947 situated at Jawaharnagar Village, Shamirpet Mandal, Ranga Reddy District to the 4th respondent as illegal, arbitrary, unconstitutional, **ii)** declare the action of the respondents inducting respondent No 4 in purporting to make a claim on the petitioners property even without issuing any proceedings in law or without issuing notice as illegal, arbitrary, unconstitutional and in breach of principles of natural justice

iii) to direct the respondents not to interfere with the petitioners rights over the said land in any manner and pass..."

3. **PERUSED THE RECORD.**

A) **Proceedings No.B/2372/2010, dated 30.06.2010 of the 3rd Respondent - Tahsildar, Shamirpet Mandal, read as under :**

"To
The District Collector,
Ranga Reddy District.

Sir,

Sub:- LANDS-R.R. District - Shamirpet Mandal - Jawaharnagar Village - Sy.No.947 admeasuring Aç.5.00 Gts- Request for release of land from HUDA and issue of NOC - Report called for Submitted - Reg.

Ref:- 1) A/o. Sri P. Vijay Kumar, S/o. P. Bala Ramaiah and S. Vishnuvardhan Reddy, S/o. Madhava Reddy Dt. 14.05.2010 filed before the Collector, R.R. District.

2) Collector, R.R. District, Lr.No. E5/2384/2010, Dt. 18.05.2010.

3) Report of the MRI, Shamirpet (M), Dt. 17-06-2010.

* * *

I invite kind attention to the subject and references cited and submit that the matter has been enquired. The facts of the case in brief are such that during the year 1941 the British Army authorities acquired an extent of Acres 5977.00

of Waste Land, Excision from 10 villages (now under the jurisdiction of Jawaharnagar Village in Hyderabad East Taluka Hyderabad State by paying compensation to affected villagers from the defense fund vide Lr. No: 828 dated 12 MEHIR 1351 Fasli for Defense purpose during the year 1950. Subsequently, on withdrawal of British troop and demobilization of Nizam Army, Government of Hyderabad, Hyderabad State developed the land by investing 5.00 Lakhs from the post war services and re-construction funds. The land has been taken over possession from the Military Estate Officer on 23.7.1951 for rehabilitation of Ex-Army personal, especially those who are demobilized from British Troop/ Hyderabad Army on account of deduction in strength of Armed Forces after 2nd world war.

After the military stopped using the land for its purposes, the Government issued orders in G.O.Ms. No:25, dated 23.10.1952 allotting the land to Labour Department to rehabilitate Ex-servicemen personnel.

A Co-operative Society was registered known as Jawaharnagar Co-operative Land Colonization Society (JCLCS, for brevity) as per the orders of the Government in their memo No. 3773-75-13 dated 9.10.1958. Though land was transferred to the Society, it was under the custody of Registrar of Co-operative Societies (RCS).

While the matter stood thus, the Society issued/allotted land in favour of (149) Ex-servicemen,

though there was no proper localization. When there were allegations of mismanagement against the Managing Committee of the Society, the District Collector by proceedings dated 27.10.1968 superseded the Committee and appointed Co-operative Sub-Registrar as Special Officer to manage the affairs of the Society.

On representation given by the members of the Society, the District Collector, recommended to the Government for resumption of the land from the society under the custody of RCS and for assignment of land to the eligible Ex- service men directly. The proposal of the District Collector vide Letter F3/3763/69 dated:1-4-1970 was considered by the Government who accepted the same and issued orders in G.O.Ms.No.17 dated:5-1-1976. As per this G.O. the land admeasuring Acs.5977.03 gts. has to be resumed from JCLCS, situated at respective villages of Medchal Taluka and to be disposed of by way of individual assignment to Ex-servicemen for whom the scheme was originally intended on priority basis. The Government also observed that balance of land available be allotted to eligible landless poor of the area. The Government issued yet another order being memorandum No.9167/B1/72-24 dated 28.5.1976 directing the authorities to follow guidelines in G.O.Ms No: 1142, dated 18.6.1954. This memorandum contains revised rules/guidelines for assignment of Government lands. These guidelines inter alia provide that the land allotted shall be to

the extent of Acs.5.00 of dry land or Ac.2.20 guntas of wet land. And that the land shall be brought under cultivation within a period of three years and the same is heritable but is not alienable. It was also made clear that the land has to be assigned only to those Ex-servicemen who are in continuous possession subsequent to allotment/earmarking of the land in their favour by JCLCS i.e. the allotment made in four different spells. However, subsequently the Government Issued orders in Memo No. (2277/Q/77-1 dated 7.6.1977 directing the authorities, to assign the land even to the legal heirs of Ex-servicemen who are in continuous possession.

In pursuance of Government orders bearing No. G.O.Ms.No:17 the then Tahasildar, Medchal Taluk, conducted a detailed enquiry by giving notifications in daily newspapers, informing the society members, who were allotted lands by the JCLCS (i.e. 149 members) to appear before him to produce the required evidences in support of their claim for confirmation of their patta certificates and possession over the lands. **The Tahsildar Medchal after conducting an open enquiry in the village to consider their eligibility for grant of pattas with reference to their possession over the land, prepared patta certificates only in favour of (102 members) who were found eligible as against the total members of (149) and allotted to them to an extent of 5 Acres of dry or 2.20 wet land each. While the matter stood thus, the remaining Ex-servicemen whose names were not considered for allotment of land**

approached the various Judicial Courts seeking a direction to the authorities to consider their cases for allotment of land on par with other Ex-servicemen who were allottees (102) patta certificates. Further, the allottees i.e. (102 Ex-servicemen) have also filed various cases before respective judicial Courts alleging that though they are in possession and occupation of the land for more than 5.00 Acres, without considering the area under their occupation they were allotted only 5.00 Acres of land which is not just and proper and therefore prayed before the Hon'ble Courts to give direction to the authorities to re-consider their cases and to allot the land as per their possession. Apart from the above allottees, some other persons who managed to get bogus allotment letters from the defunct JCLCS also filed Court cases in Munsif Court and Hon'ble High Court.

From the above it is evident that the JCLCS society has allotted land in favour of 149 Ex-servicemen earlier in terms of G.O.Ms.No.17 dated 5-1-1976. Thereafter the Government has conducted a discreet enquiry and finalized (102) members among the (149) members as eligible persons as per orders of the Tahsildar, Medchal Taluk file No.B6/195/76. As such, the rights of the (102) Ex-servicemen stand good and still subsist.

It is pertinent to mention here that out of (102) Patta certificates only (40) patta certificates have been distributed in favour of respective certificate holders.

In the instant case, Sri Nagina Khan was assigned land in Sy.No.947 admeasuring Ac.5.00 Gts situated at Jawaharnagar Village under Ex-Servicemen quota, the name of Sri Nagina Khan is found in the list of 149 members at Sl.No. 87, who has been allotted by the Jawaharnagar Co-operative Land Colonization, Malkaram, Hyderabad District. Further the name of Sri Nagina Khan is found at Sl.No.42 in the finalized list of 102 members in Tahsildar, Medchal file No.B6/195/76. The Patta certificate is prepared and kept ready for distribution and the same is shown in the patta certificate not distributed list. Even though the patta certificate has not been distributed to the assignee, the certified copy of the patta certificate have been obtained by the assignee. The Legal Heirs of the assignee late Sri Nagina Khan i.e. Sri Anwar Khan, S/o. Late Sri Nagina Khan, 2) Smt. Nargis Sultana Begum, W/o. late Sri Ali Hussain, 3) Smt. Farath Begum, W/o. Sri Syed Osman Ali and 4) Smt. Rahana Sultana, W/o. Sri Althaf Khan have executed a sale deed No. 168/2006 in favour of present petitioners Sri P. Vijay Kumar, S/o. P. Bala Ramaiah and S. Vishnuvardhan Reddy, S/o. Madhava Reddy in the land bearing Sy. No. 947 admeasuring Ac.5.00 gts situated at Jawaharnagar

Village, Shamirpet Mandal. The said land in question has been handed over to HUDA.

The request of the petitioners is that, he has purchased the land in question in terms of G.O.Ms.No.1117, dated 11-11-1993 from the Legal heirs of the assignee Late Sri Nagina Khan, who was assigned land under Ex-servicemen quota by the Jawaharnagar Co-operative Land Colonization, Malkaram, Hyderabad District and also the same was confirmed by the Tahsildar, Medchal in file No. B6/195/76 in pursuance of G.O.Ms. No: 17, dated 05-01-1976. **The name of the assignee Sri Nagina Khan was recorded at Sl.No.42 in the finalized list of 102 members in file No.B6/195/76. The Petitioners have stated that, even though the vendors of the petitioners and subsequently the petitioners herein are in physical possession of the land in Sy.No.947 admeasuring Ac.5.00 gts, the revenue authorities without verifying the rights of the patta certificate holder and without issuing any notice to the assignee or to the subsequent purchasers have handed over the land in question to HUDA authorities symbolically. Finally the petitioners are requesting to release the land from HUDA and issue NOC in respect of land bearing Sy. No.947 admeasuring Ac.5.00 gts situated at Jawaharnagar Village, Shamirpet Mandal.**

It is submitted that, the petitioners' vendor's predecessor's name is found in the finalized list of 102

members in Tahasildar, Medchal file No.B6/195/76, and the land bearing Sy.No.947 admeasuring Ac.5.00 gts situated at Jawaharnagar Village is kept vacant. In the said circumstances, it is recommended to release the land from the HUDA authorities and issue NOC to the present petitioners i.e. Sri P.Vijay Kumar, S/o.P.Bala Ramaiah and S.Vishnuvardhan Reddy, S/o Madhava Redy as per rules in vogue. The location sketch prepared by the Mandal Sureyor of this office long with check memo is enclosed herewith."

B) The Letter of the Joint Collector, Ranga Reddy District vide Letter No.E5/2384/2010, dated 12.10.2010 is as follows :

"To

The Metropolitan Commissioner &
Chairman, HMDA Tarnaka,
Hyderabad.

Sir,

Sub:- Lands R.R. District Shamirpet Mandal Jawaharnagar Village Sy.No.947-Extent Ac.5.00 gts Request for Release of land from HUDA and to issue NOC -Report received from the Tahsildar, Shamirpet - Remarks sought - Regarding.

Ref:- 1. Sri.P. Vijay Kumar S/o Bala Ramaiah and other R/o Hyd., dt.14.05.2010.

2. Tahsildar, Shamirpet (M) Lr.No. B/2372/2010, dt.30.6.2010.

* * *

I invite kind attention to references cited. vide reference 1st cited the applicants one Sri.P. Vijay Kumar S/o Bala Ramaiah and other R/o Hyderabad, has submitted representation requesting for cancellation of the alienation of land in favour of HUDA, or allot alternative land or pay compensation as per present market value since the land was allotted to their vendor in Sy.No. 947 extent Ac.5.00gts situated at Jawaharnagar village, Shamirpet Mandal under Ex-Servicemen category by JCLCS. **The name of original assignee Sri.Nagina Khan is reflected at Sl.No.42 in final list of (102) persons and the patta certificate, though prepared has not been distributed.**

Further it is submitted that vide reference 2nd cited the Tahsildar, Shamirpet has submitted that the name of petitioner's vendor's predecessor Nagina Khan is found in the final list of 102 persons at Sl.No.42 in the Tahsildar, Medchal in file No.B6/195/76 and prepared the patta certificate but not distributed to the assignee. The land bearing Sy.No.947 for an extent Ac.5.00 gts., situated at Jawaharnagar Village, is reported to be vacant.

In view of the above, I request that the copies of the references submitted may kindly be examined and further directions may be kindly given by the HMDA to enable this

office to take further necessary action in the matter, since petitioners are claiming that the subject land was handed over to HUDA authorities symbolically and requested to release the land from the HUDA."

C) Representation of the 1st Petitioner addressed to the 4th Respondent dated 12.01.2011, read as under :

"From,
P. Vijay Kumar,
2-2-18/54, D.D.Colony,
Vidyanagar, Hyderabad.

To,
The Metropolitan Commissioner & Chairman,
HMDA,
Hyderabad.

Sub: Releasing of land in survey number 947 of Jawaharnagar Village, R.R.District.

Sir,

I have submitted an application to the Joint Collector Ranga Reddy district on 22.3.2010 to release my patta certificate of survey No. 947 of Jawaharnagar Village, Shamirpet mandal, R.R.District. Now we came to know that on 12.10.2010 they have forwarded a letter in your name to release the above mentioned survey number from HMDA. Three months completed neither I have received releasing letter nor any other information regarding the release.

Now once again I am requesting you to release the survey number 947 of Jawaharnagar village, Shamirpet Mandal, R.R.District from your HMDA limits.

Waiting for your kind reply."

D) Letter of the Executive Officer under RTI Act furnished to the 1st Petitioner vide No.B5/7640/2002, dated 18.11.2013 :

"To
Sri P. Vijay kumar
R/o 2/2/18/54,
DD colony
Vidyanagar, Hyd-13.

Sub:- HMDA - R.R DIST - SHAMIRPET MANDAL-
JAWAHARNAGAR (v) RTI Act, - Furnishing information -
Req - Reg.

Ref:- 1. A/o P.Vijay kumar R/o 2/2/18/54, DD colony
Vidyanagar, Hyd.
2. LAO 7 PIO. Op/221/RTI/Admn PIO/13, Dt.6.11.2013.
3. B4/1047/2013, dt.13.11.2013.

With reference to the above cited, it is to inform that the information called under RTI Act by the applicant in the reference 1st cited is as follows.

1) The District Collector, R.R. District was allotted Government land to HMDA in four spells for development and Resource mobilization of funds through panchanama

Dt.6.10.2000, 14.11.2002, 30.12.2002 and 9.2.2004 to an extent of Ac. 2370.25 gts.(copies enclosed).

2) The HMDA has not allotted any land to Medtech Valley as on today.

3) The Sy.No. 947 abutting to north side Sy.no. 948, south side 954, East side Sy.No.950 and West side Sy.No.946 of Jawaharnagar villege. The Sy.No.947 not allotted to any institution sofar.

This is for information."

E) Letter No.E5/2384/2010, dated 18.05.2010 of the Collector, Ranga Reddy District addressed to the Tahsildar, Shamirpet Mandal, Ranga Reddy District :

**"GOVERNMENT OF ANDHRA PRADESH
REVENUE DEPARTMENT**

**OFFICE OF THE COLLECTOR,
RANGA REDDY DISTRICT.**

Lr.No.E5/2384/2010

Dated:18-05-2010.

To
The Tahsildar,
Shamirpet Mandal,
Ranga Reddy District.

Sir,

Sub:- Lands R.R. District - Shamirpet Mandal -
Jawaharnagar Village - Sy:No.947 Extent Ac.5.00gts -

Request for allotment of land in lieu of land alienated to HUDA - Reports called for Regarding.

Ref:- R/o Sri.P.Vijay Kumar S/o Bala Ramaiah and other R/o Hyd., dt: 14-05-2010.

* * *

While enclosing a copy of the reference cited along with its enclosures. You are requested to enquire into the matter and submit detailed report with reference to original records and physical status of the subject land through Divisional Office for taking further action in the matter."

F) Counter affidavit filed on behalf of Respondent Nos.1 to 3, in particular, paragraph No.2 the relevant portion, reads as under:

"... In pursuance of G.O.Ms.No.17 and as per the order issued by the Government, the then Tahsildar, Medchal Taluq, conducted a detailed enquiry by giving advertisement in daily newspapers, informing the society members, among the (149) original members of the Society after conducting enquiry on their eligibility and possession over the land prepared patta certificates to (102) members who are eligible, to an extent of Ac.5-00 dry or Ac.2-20 gts., wet land.

In the instant case it is humbly sbumitted that as per the records no land was allotted/assigned to

Nagina Khan (the predecessor of the petitioner's vendor) and no patta certificate was issued in favour of Nagina Khan. It is submitted that though patta certificate was prepared in the name of Nagina Khan it was not distributed nor possession of the land was given for reasons best known to the then Tahsildar. The mere allotment of land by the Jawaharnagar Co-operative Land Colonization Society and payment of tax, if any, will not create the legal rights and by obtaining a copy of patta certificate in such instance, no third party transaction is valid and the G.O.Ms.No.1117 dated: 11.11.1993 will also have no effect as alleged in the writ petition.

Further it is humbly submitted that neither the petitioners nor Nagina Khan were in open, continuous and uninterrupted possession of the lands admeasuring Ac.5.00 gts., in Sy.No.947, situated at Jawaharnagar village of Shamirpet Mandal and the question of interference by the respondents also does not arise as alleged. In fact a report was called for vide Lr.No.E5/2384/2010 dt.18.5.2010 and in turn a report was also submitted on 30.6.2010 by the 2nd Respondent to the 3rd Respondent in which the then Tahsildar reported that no patta was issued nor possession of land was given officially nor none is in possession of the land in question at any point of time as alleged.

Therefore all the contentions raised in the writ petition are created only for the purpose of writ petition.

It is submitted that the land in question is a government land from the beginning till date and the said land was already allotted to the HUDA and possession was also delivered and the same has been in physical possession of HUDA now HMDA for a long time.

Taking into consideration the facts and circumstances submitted above, it is therefore prayed that this Hon'ble Court may be pleased to dismiss the writ petition in the interest of justice and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.
Hence this affidavit."

G) Additional Counter affidavit filed on behalf of 4th

Respondent on 20.07.2023, the relevant portion, reads as under :

"...that no land was handed over to the late Nagina Khan, nor was he given patta certificate nor any pattadar pass book was given by any competent authority so far. Therefore, the very selling of land in question to the petitioner by alleged legal heir of Nagina Khan is without ownership and without transferable rights over the land in question. Therefore, the

sale so made in favour of the petitioner is void in law. The HMDA has acquired the land with effect from 06.10.2000, and accordingly it has been in possession.

6. In reply to para (5) of the additional reply affidavit of the petitioners, I humbly submit that the record and additional record filed are in Xerox and same are not admissible in law. Further no record is showing that neither vendors of the petitioners are the owners of land in question nor the petitioners have been produced certificate showing the possession of the land. Hence, on the face of the record, the petitioners have deposed the false affidavit before this Hon'ble Court. Hence, this respondent is seriously disputing the possession of the land and also ownership. Hence the present writ petition is not maintainable in law."

H) Better affidavit filed on behalf of 4th Respondent on 08.11.2023, in particular, para No. 3, reads as under :

"3. I humbly submit that the petitioner herein filed xerox copy of the sale deed dt: 17.03.2006 vide document No. 168/2006 related to land in Sy. No:947, extent Ac 5.00 gts situated at Jawaharnagar (V) Kapra (M) erstwhile Shamirpet Mandal stating that it was executed by the legal heirs of Sri Late. Nagina khan with the sub-Registrar Office, Shamirpet. But it was not released for want of no objection certificate from the District Collector. But so far, the said No Objection Certificate is furnished. **Further the land in question is**

listed in prohibited list and the said land is shown in Dharani as Govt Land. Hence the petitioner has no title over the land in question. As such there are no merits in the writ petition."

I) Additional reply affidavit to the counter affidavit of Respondent No.4, in particular para Nos. 4 and 5, read as under:

"4. The case of the petitioner stands fortified solely on the ground that the assignment patta was issued by the government and the same was not cancelled till today. As such, the assignment patta is presumed to be genuine, para No.8 of the counter the affirmation stated that G.O.Ms.No.1142, dated 18-06-1954 clearly indicates the land colonization clarification memo dated 07-06-1977 expressed devolution of interest of legal heirs of assignees. As such the undisputed fact remains undisturbed that the petitioner's vendors were the legal heirs of original assignee late Nagina Khan and there is no solitary statement expressed by respondents denying the original assignment to resumption under the assignment laws and the respondents have not filed any document showing that resumption orders were passed by the respondents.

5. The petitioners rely on the record of rights documents to show that they continue to be in possession of subject land if

at all respondents also affirm that possession was delivered to respondent No.4. No record of rights was circulated to show their possession in column No.10 of Record of rights, it is rebuttable in reference to para -9 of the counter where they do concede the case of petitioner that units of assignment to an extent of Ac.5.00 each were allotted and one such person is Nagina Khan, even this is confirmed by the list which the respondent No.2 rely on that 102 members were beneficiaries of assignment which goes to prove that the assignees were in possession and enjoyment of subject land in issue. As such, the reply is properly accorded. This fact is confirmed in the counter affidavit of Respondent No.1 to 3 at page No.3 para No.2 which confirms that the possession of subject land was delivered to the original assignee and similarly placed persons.

Hence this additional reply affidavit."

J) **Interim orders of this Court dated 09.06.2011 passed in WPMP No.18509 of 2011 which are in force as on date.**

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

i) The petitioners herein are the absolute owners of property admeasuring Ac.5.00 gts in Sy No.947 situated at Jawaharnagar Village, Shamirpet Mandal, Ranga Reddy District. The said property was purchased by the petitioners under a registered sale deed dated 17.3.2006 which has been presented for the registration before the Sub Registrar, Shamirpet and is currently pending as document No.168 of 2006. Prior to purchasing of the property, the petitioners verified the title antecedents of the petitioners' vendors and the petitioners learnt that the said property was allotted along with other extent admeasuring in total 5977 Acres in Jawaharnagar Village to one Jawaharnagar Co-operative Land Colonization Society (JCLCS) vide G.O.Ms.No.25 dated 23.10.1952.

ii) The members of the JCLCS were all former Ex-servicemen who were allotted different extent of properties. One of the allottees was Nagina Khan (the predecessor of the petitioner's Vendor) who was allotted an extent of Ac.5.00 gts. A patta certificate was also issued in favour of Nagina Khan. A copy of the said patta certificate is enclosed and annexed as Annexure P-1. Though the said patta certificate initially specified that the land

would not be alienable in respect of ex-servicemen the Government of Andhra Pradesh made an exception and issued G.O.Ms.No.1117 dated 11.11.1993 enabling the ex-servicemen to alienate any assigned land 10 years after the date of assignment.

iii) It is further the case of the Petitioners that when the sale deed was presented for registration, the registering authority stated that the document would not be released until a "No Objection Certificate" is produced from the Office of the District Collector, Ranga Reddy District. Upon Petitioners queries with the official Respondents, **the Petitioners were informed that as per the record of the Respondents No.2 and 3 the said extent of 5 guntas was shown as allotted to the 4th Respondent on 06.10.2010.** In response to the Petitioners representation dated 22.03.2010, the 2nd Respondent called for a report from the 3rd Respondent vide Proceedings Letter No.E5/2384/2010, dated 18.05.2010, the 3rd Respondent submitted a report dated 30.06.2010 vide No.B/2372/2010 to the District Collector, Ranga Reddy District, referring to the various facts and acknowledging the genuineness of the claim of Late Nagina Khan who was assigned land under Ex-Servicemen quota by the Jawaharnagar Co-operative

Land Colonization, Malkaram, Hyderabad District, and the same was confirmed by the Tahsildar, Medchal in File No.B6/195/76, in pursuance of G.O.Ms.No.17, dated 05.01.1976 and the name of the assignee Sri Nagina Khan was recorded at Sl.No.42 in the finalized list of 102 members in File No.B6/195/76, and that the Petitioners had purchased the same from the legal heirs of the assignee late Sri Nagina Khan, but however, the 3rd Respondent purported to contend that the land was allotted to HUDA and possession handed over symbolically to HUDA. No allotment order however had been provided or furnished to the Petitioner. **Aggrieved by the action of the Respondents in depriving Petitioners' constitutional rights of property guaranteed under Article 300A of the Constitution of India, the Petitioners filed the present writ petition.**

5. The Counter affidavit has been filed by Respondents Nos.1 to 4 wherein it is stated that patta certificates were issued after conducting enquiry on their eligibility to 102 members as per G.O.Ms.No.17 out of 149 original members of JCLCS and it is also stated that though patta certificate was prepared in the name of Nagina Khan it was not distributed nor possession of land was given

for the reasons best known to the then Tahsildar and further a specific plea is taken by the Respondents Nos.1 to 4 that neither the Petitioners nor Nagina Khan were in open, continuous and uninterrupted possession of the land admeasuring Ac. 5.00 gts., in Sy.No.947 situated at Jawaharnagar Village, Shamirpet Mandal and question of interference by the Respondents did not arise as alleged by the Petitioners.

6. Additional counter affidavit and better affidavit had been filed by the 4th Respondent specifically contending that no land was handed over to Late Nagina Khan nor was he given patta certificate nor any pattadar passbook was given by any competent authority and further that no record indicates that the petitioners are in possession of the subject land nor the records indicate the ownership of the petitioners over the subject land and that HMDA is in possession of the subject land w.e.f. 06.10.2000 and further that the land in question is listed in the prohibited list and the said land is shown in Dharani as Government land.

DISCUSSION AND CONCLUSION :

7. A bare perusal of the material document No.B/2372/2010, dated 30.06.2010 of the Tahsildar, Shamirpet Mandal, addressed to the District Collector, Ranga Reddy District, filed by the Petitioners herein (referred to and extracted above) clearly indicates that the rights of 102 ex-servicemen stand good and are still subsisting and out of 102 patta certificates only 40 patta certificates had been distributed in favour of respective certificate holders and that the name of Sri Nagina Khan is found at Sl.No.42 and that patta certificate had been prepared, but however, had not been distributed and that the subject land had been handed over to HUDA. The last paragraph of the said report dated 30.06.2010 of the Tahsildar, Shamirpet Mandal, reads as under:

“It is submitted that, the petitioner’s vendor’s predecessor’s name is found in the finalized list of 102 members in Tahsildar, Medchal file No.B6/195/76, and the land bearing Sy.No.947 admeasuring Ac.5.00 gts situated at Jawaharnagar Village is kept vacant. In the said circumstances, it is recommended to release the land from the HUDA authorities and issue NOC to the present petitioners i.e. Sri P. Vijay Kumar, S/o. P. Bala Ramaiah and S. Vishnuvardhan Reddy, S / o Madhava Reddy as per rules in vogue. The location sketch

prepared by the Mandal Surveyor of this office along with check memo is enclosed herewith."

8. A bare perusal of material document letter No.E5/2384/2010, dated 12.10.2010 of the Joint Collector, Ranga Reddy District, addressed to the 4th Respondent herein filed by the Petitioners which is in response to Petitioners representation dated 14.05.2010 seeking a request for release of the subject land from HUDA and to issue NOC and referring to the report of the Tahsildar, Shamirpet (M), letter No.B/2372/2010, dated 30.06.2010, indicates in particular at para No.2 of the said letter that the **subject land bearing Sy.No.947 for an extent of Ac.5.00 gts, situated at Jawaharnagar Village is reported to be vacant.**

9. A bare perusal of the material document filed by the Petitioners i.e., Letter dated 18.11.2013 vide B5/7640/2002 of the Estate Officer addressed to the Petitioners herein, **which is infact information received by the Petitioners in an RTI application clearly indicates that Sy.No.947 as having not been allotted to any Institution as on 18.11.2013.**

10. A bare perusal of the material document filed by the Petitioners i.e., Letter No.E5/2384/2010, dated 18.05.2010 of the

Collector, Ranga Reddy District addressed to the Tahsildar, Shamirpet Mandal, Ranga Reddy District, clearly indicates that in response to Petitioners representation dated 14.05.2010 requesting for allotment of land in lieu of land alienated to HUDA, **the office of the District Collector requested the concerned Tahsildar, Shamirpet Mandal, Ranga Reddy District, to enquire into the matter and submit detailed report with reference to the original records and physical status of the subject land through Divisional Office for taking further action in the matter way back on 18.05.2010 itself.**

11. This Court on perusal of entire material on record opines that the report dated 30.06.2010 of the 3rd Respondent **very clearly observed that the Petitioners' vendor's predecessor's name is found in the finalized list of 102 members in Tahsildar, Medchal file No. B6/195/76, and the land bearing Sy.No.947 admeasuring Ac.5.00 gts., situated at Jawaharnagar Village is kept vacant and further vide the said report it was recommended to release the subject land from the HUDA authorities and issue NOC to the present petitioners i.e., Sri P. Vijay Kumar, S/o.**

P. Bala Ramaiah and S. Vishnuvardhan Reddy, S/o. Madhava Reddy as per rules in vogue.

12. The counter affidavit filed by the Respondents No.1 to 4 herein however, curiously did not refer to all the above referred serious issues and took a specific plea that the subject land is in possession of HMDA w.e.f., 06.10.2010 and further disputed the possession of the land of the Petitioners and also their ownership.

13. It is the specific case of the petitioners at para No.4 of the reply affidavit filed by the petitioners that the name of the predecessor of the vendor of the petitioners is found in the list of members who have been allotted the land under Jawaharnagar Co-operative Land Colonization at Sl.No.87 and the vendors of the Petitioners through their predecessors in title had been in possession of the subject property and presently the petitioners constructed the compound wall and they have been granted electricity permission by the authorities, as such petitioners through their predecessors in title are in continuous possession of the property from the date of allotment of lands by JCLS till date. It is further the specific plea of the petitioners in the additional affidavit

filed in September 2022 that as per pahanies from the years 1977-78, 1978-79 the name of Nagina Khan reflected in respect of the subject land under the possession column and the name of the pattedar as Labour Department and as such it is specifically contended by the Petitioners that the rights of the vendors of the petitioners stand good as on date of execution of sale deeds in favour of petitioners and the alienation made by them stands valid.

14. A Division Bench of High Court at Hyderabad vide its judgment dated 07.04.2021 in W.P.No.15041 of 2019 reported in 2021 (4) ALD 132 in BHEL Employees Model Mutually Aided Co-op. House Building Society Ltd., Sangareddy Vs. State of Telangana and Others at Para Nos.32 to 37 observed as under :

32. Thus only for lands which are assigned to landless poor which contain a condition of non-alienation, the prohibition contained in [Section 3](#) of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1971, is attracted

33. As far as lands assigned to Ex-Servicemen are concerned, initially the then State of Andhra Pradesh had issued G.O.Ms.No.743 dt.30.04.1963 providing for assignment of land to Ex-Servicemen with a condition that the land assigned should not be sold or otherwise alienated for a period of 10 years and the

extent permitted for assignment was Ac.2.50 (wet) or Ac.5.00 (dry).

34. This was modified in G.O.Ms.No.1117 dt.11.11.1993 and the Ex-Servicemen were permitted to sell away their assigned lands after a period of 10 years freely without even seeking permission of the Government.

35. The scheme of assignment of land to Ex-Servicemen was intended by the State to work as an incentive for persons who want to join the Army, and also as a way to pay gratitude to those who risked their lives in defending the country against heavy odds being away from their families during the better part of their life.

36. But if the condition of non-alienation is for a limited period of time, as in the case of Ex-Servicemen, i.e. only for 10 years from the date of assignment, and if the transfer is made by the Ex-Serviceman after the said period, such land cannot be prohibited from transfer and the above statute has no application.

37. It is the contention of the petitioner that initially the lands claimed by it had been assigned to Ex-Servicemen who had alienated the same after completion of 10 years from the date of assignment and that there were several transfers before the petitioner acquired title to the land. According to the petitioner, there is no condition in force prohibiting alienation after the expiry of 10 years from the date of assignment to Ex-Servicemen, and consequently the land purchased by the petitioner cannot fall in Clause (a) of Sub-Section (1) of Section 22-A.

The decision of the Full Bench in Vinjamuri Rajagopalachary and others (1 supra)".

15. Taking into consideration the view of the Division Bench of this Court in the judgment referred to and extracted above, this Court opines that the plea of the 4th Respondent HMDA at Para No. 3 of the better affidavit filed on behalf of the 4th Respondent on 08.11.2023 that the subject land in question is listed in prohibited list and the said land is shown in Dharani as Government Land cannot be accepted since by virtue of the above said judgment the Respondents No.1 to 4 are not entitled to put the subject lands in the prohibitory register invoking sub-section (1)(a) of Section 22-A of the Act.

16. This Court opines as such the assignment patta is genuine and it is clearly evident as per the proceedings No.B/2372/2010, dated 30.06.2010 of the 3rd respondent, Tahasildar, Shamirpet Mandal that G.O.Ms.No.1142, dated 18.06.1954 issued by the Government clearly indicates revised rules/guidelines for assignment of Government lands and by the subsequent clarification Memo dated 07.06.1977 Government also directed

assignment of land to legal heirs of the ex-servicemen who are in continuous possession, so admittedly it is undisputed that the Land Colonization Clarification Memo dated 07.06.1977 expressly provides for devolution of interest of legal heirs of assignees and it is not the case of the Respondents even as per the counter affidavit filed by the Respondents that resumption orders were passed by the Respondents in respect of the Petitioners' subject land and in fact para 2 at page 3 of the counter affidavit filed by Respondents No.1 to 3 clearly indicates that the Respondents have conceded the case of the Petitioners that units of assignment to an extent Ac.5.00 each were allotted and 102 members proved to be eligible among 149 original members of the society and the same indicates that the assignees were in possession and enjoyment of the subject land in issue and further the report of the Tahsildar, Shamirpet Mandal, dated 30.06.2010 vide Proceedings No.B/2372/2010 clearly admits the fact as borne on record that Petitioners vendor's predecessor's name is found in the finalised list of 102 members in Tahsildar, Medchal file No. B6/195/76 and the land bearing Sy.No.947 admeasuring Ac.5.00 situated at Jawaharnagar Village is

kept vacant. Therefore this Court opines that the Petitioners are entitled for the relief as prayed for in the present writ petition.

17. Taking into consideration :

- i) the aforesaid facts and circumstances of the case,**
- ii) Duly considering :**
 - a) Report No.B/2372/2010, dated 30.06.2010 of the Tahsildar, Shamirpet Mandal,**
 - b) The Letter of the Joint Collector, Ranga Reddy District vide Letter No.E5/2384/2010, dated 12.10.2010,**
 - c) Representation of the Petitioner addressed to the 4th Respondent dated 12.01.2011,**
 - d) Letter of the Executive Officer under RTI Act furnished to the Petitioner vide No.B5/7640/2002, dated 18.11.2013,**
 - e) Letter No.E5/2384/2010, dated 18.05.2010 of the Collector, Ranga Reddy District addressed to the Tahsildar, Shamirpet Mandal, Ranga Reddy District.**
 - f) The averments made in the counter affidavit filed on behalf of respondent Nos. 1 to 3**

iii) Duly considering the entire material on record and the interim orders of this Court dated 09.06.2011 in W.P.M.P No.18509 of 2011 which are in force as on date.

18. The Writ Petition is allowed as prayed for and the respondents are directed not to interfere with the petitioners' rights over petitioners' subject lands in Sy.No.947 situated at Jawaharnagar Village, Shamirpet Mandal, Ranga Reddy District without following due process of law. However there shall be no order as to costs.

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

MRS. JUSTICE SUREPALLI NANDA

Date: 03.06.2024

Note : L.R. Copy to be marked.

B/o. *Yvkr*