

HIGH COURT FOR THE STATE OF TELANGANA

WRIT PETITION No.49 OF 2019

Between:

Pushpa Bai (died) her L.Rs 3 to 5 .. Petitioners

Vs.

The State of Telangana rep. by Secretary to
Govt. Tribal Welfare (LTR) Department, Secretariat,
Hyderabad & 3 others. .. Respondents

DATE OF THE ORDER PRONOUNCED: **28.02.2023**

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

*** HON'BLE SRI JUSTICE J. SREENIVAS RAO**

+ WRIT PETITION No.49 OF 2019

% DATED 28TH FEBRUARY, 2023

Pushpa Bai (died) her L.Rs 3 to 5 .. Petitioners

Vs.

\$ The State of Telangana rep. by Secretary to
Govt. Tribal Welfare (LTR) Department, Secretariat,
Hyderabad & 3 others.

.. Respondents

<Gist:

>Head Note:

! Counsel for the Petitioners : Sri S. Chandrasekhar

^Counsel for Respondents : Govt. Pleader for Social Welfare

? CASES REFERRED :

HON'BLE SRI JUSTICE J. SREENIVAS RAO**WRIT PETITION No.49 OF 2019****ORDER:**

This writ petition is filed for seeking writ of Certiorari, calling for the records relating to Revision Case vide No.1082/LTR-2/2017 and set aside the order passed in the said Revision case by the respondent No.1 *vide* G.O.Ms.No.31 Tribal Welfare (LTR) Department, dated 29.09.2018 and further declare the dismissal of the said Revision case as illegal, arbitrary, violative of Articles 14, 21 and 300-A of the Constitution of India and against the mandatory provisions of APSALTR 1959 and further direct the respondents to restore the suit land i.e.0-35 cents in Sy.N.440/C; 0-88 cents in Sy.No.442/B; 0-48 cents in Sy.No.440/B, 0-75 cents in Sy.No.467/1 and 0-83 cents in Sy.No.467/1 of Loanvelly Village, Sirpur Mandal, Komurambheem-Asifabad District to the petitioners.

2. Heard Sri S. Chandrasekhar, learned counsel for the petitioners and learned Assistant Government Pleader for Social Welfare appearing on behalf of respondents.

Brief facts of the case:

3. Petitioners submit that the subject land to an extent of Ac.0-48 cents in Sy.No.440/B, Ac.0-88 cents in Sy.No.442/B, Ac.0-35 guntas in Sy.No.440/C and Ac.1.68 guntas in Sy.No.467/1 situated at Loanvelly Village, acquired through their ancestors and in the year 1969 they partitioned the above said property among the family members and since then the petitioners have been in possession of the respective shares allotted to them.

3.1 The petitioners further submit that in the year 1987 respondent No.3 had initiated *suo moto* proceedings viz., (1) Case No.TWA1/1285/87 against Ramesh and Raghavloo, in respect of land an extent of Ac.0.48 and Ac.0.88 cents in Sy.Nos.440/B, 442/B, (2) TWA1/1286/87 against Baktaiah and D. Pushpa Bai in respect of land to an extent of Ac.0.35 cents in Sy.No.440/C and (3) TWA1/1292/1987 against Ashafaz Hussain, D.Raghavloo and D. Sriramulu in respect of land to an extent of Ac.1.68 cents in Sy.No.467/1 by exercising the powers conferred under the provisions of Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 (Regulation No. 1 of 1959) hereinafter called as 'Regulation' for brevity, on

the ground that late Sri D. Raghavloo had purchased the land to an extent of 0-48 cents in Sy.No.440/B and 0-88 cents in Sy.No.442/B of Loanvelly Village from one Sri Ramesh, 0.35 guntas in Sy.No.440/C of Loanvelly village from Batkaiah and 1.68 cents in Sy.No.467/1 of Loanvelly Village from Ashwak Hussain in contravention of Regulation.

3.2 The petitioners further submit that during the course of enquiry before respondent No.3 late D. Raghavulu was bed-ridden and due to his ill-health he could not prosecute the proceedings. Respondent No.3 without giving reasonable opportunity to the parties passed ejectment orders dated 14.8.1987. Against the said orders, they filed Appeals vide No.D4/Ag/66/87, D4/Ag/67/87 and D4/Ag/68/87 before the respondent No.2. The Appellate Authority also without properly considering the contentions, evidence on record, dismissed the appeals by its order dated 08.06.1990 confirming the ejectment orders of the respondent No.3. Questioning the said orders they filed individual writ petitions viz., (1) W.P. No.10488 of 1990, (2) W.P. No.10450 of 1990 and (3) W.P. No.10452 of 1990 before this Court and the said writ petitions were also dismissed on 27.02.2004. They further submit that the petitioners in the

said writ petitions are not aware of dismissal of the writ petitions till they received notice vide Procs.No.B/631/2004 dated 27.12.2006 from respondent No.4, wherein he directed the petitioners to hand over the possession of the subject land pursuant to the ejectment orders passed by respondent No.3 dated 14.08.1987.

3.3 The petitioners further submit that after receiving the said notice dated 27.12.2006, Smt.Pushpa Bai and others have filed Revision Petition before respondent No.1 questioning the orders dated 08.06.1990 passed by the Appellate Authority/ respondent No.2 vide Appeal Nos.D4/Ag/66/87, D4/Ag/67/87 and D4/Ag/68/87 and orders dated 27.12.2006 in Procs. No.B/631/2004 of respondent No.4. The respondent No.1 while admitting the Revision Petition No.1082/LTR-2/2007-2 rejected the stay petition on 06.03.2007. Questioning the said rejection order Pushpa Bai and another filed WP No.7703 of 2007 before this Court and the same was dismissed on 16.04.2007. However, this Court directed the respondent No.1 to consider and dispose of the representation in accordance with law. The petitioners further submit that respondent No.1 without

considering the grounds raised in the Revision Petition dismissed the same and passed the impugned order vide G.O.Ms.No.31, Tribal Welfare (LTR) Department dated 29.09.2018.

4. Respondent No.2 filed counter denying the allegations made by the petitioners *inter alia* contending that the subject lands are situated in the scheduled area and the petitioners have contravened the provisions of Regulations and the respondent No.3 has rightly initiated the proceedings No.TWA1/1285/87, (2) TWA1/1286/87 and (3) TWA1/1292 /1987 by exercising the powers conferred under the Regulations and after following the due procedure prescribed under law passed the ejectment orders on 14.08.1987. In spite of service of notice the parties therein have not chosen to contest the proceedings. Questioning the said orders filed the Appeals before the respondent No.2/Appellate Authority and the same were dismissed on 08.06.1990. Against the said orders, three writ petitions Nos.10448 of 1990, 10450/1990 and 10452/1990 filed before this Court and the same were dismissed by giving cogent reasons by its order dated 27.02.2004 and the said

orders have become final. Respondent No.4 has taken possession of the subject lands into Government custody on 05.01.2007 by issuing notice on 27.12.2006. Subsequently, Pushpa Bai and others have filed Revision Petition before the respondent No.1 questioning the orders passed by the respondent No.2 dated 08.06.1990 and Proceedings No.B/631/2004 of respondent No.4. The respondent No.1 rejected the stay petition on 06.03.2007. Questioning the said order, Pushpabai and another have filed WP No.7703 of 2007 before this Court and sought consequential relief of restoration of the lands. The said writ petition was dismissed on 16.04.2007.

4.1 Respondent No.2 further states that pursuant to the ejectment order passed by the respondent No.3, respondent No.4 has already taken possession of the subject lands into Government custody on 05.01.2007. The respondent No.1 after considering the grounds raised by the petitioners therein and after following the due procedure of law, dismissed the Revision Petition and passed the impugned order vide G.O.Ms.No.31, Tribal Welfare (LTR) Department dated 29.09.2018 and the

petitioners are not entitled any relief much less the relief sought in the present writ petition.

5. The learned counsel for the petitioners Sri S. Chandrasekhar vehemently contended that respondent No.3 initiated the *suo moto* proceedings by exercising the powers conferred under the Regulation and without giving reasonable opportunity to the predecessors of the petitioners passed the ejection orders on 14.08.1987, though the provisions of the Regulations are not applicable as the transaction took place prior to the Regulations came into effect. The Appellate Authority also without adjudicating the appeal on merits, without giving any reasons, simply confirmed the order of the Primary Authority and dismissed the appeals on 08.06.1990. Similarly, respondent No.1 also dismissed the Revision Petition and passed the impugned order vide G.O.Ms.No.31 dated 29.09.2018 and the same is contrary to the law and liable to be set aside.

6. *Per contra*, the learned Assistant Government Pleader contended that respondent No.3 had initiated the proceedings by exercising the *suo moto* powers conferred under the

Regulations and after following the due procedure contemplated under law and giving reasonable opportunity to the parties, passed ejectment orders on 14.08.1997 and the same was confirmed by Appellant Authority/2nd respondent and Revisional Authority/1st respondent. The learned Government Pleader further contended that the predecessors of the petitioners have filed three independent writ petition Nos.10488 of 1990, 10450 of 1990 and 10452 of 1990 questioning the orders passed by respondent No.2 dated 08.06.1990 and this Court dismissed the writ petitions on 27.02.2004 by giving cogent reasons and the said orders have become final and binding upon all the parties including the petitioners in the present writ petition. She further submits that respondent No.4 has taken possession of the subject lands into Government custody on 05.01.2007 by following due procedure. After dismissal of the writ petitions, the petitioners filed Revision Petition before the respondent No.1 questioning the orders passed by respondent No.2 dated 08.06.1990 and notice issued by respondent No.4 dated 27.12.2006 and the Revision Petition filed by the predecessors of the petitioners is not maintainable under law. The predecessors of the petitioners filed another Writ

Petition No.7703 of 2007 questioning the order dated 06.03.2007 passed by the respondent No.1 rejecting the stay petition and the said writ petition was also dismissed on 16.04.2007. The respondent No.1 dismissed the Revision Petition after considering the grounds and material evidence on record and passed the impugned order *vide* G.O.Ms.No.31, Tribal Welfare (LTR) Department dated 29.09.2018 and there is no illegality or irregularity or jurisdictional error in the impugned order and the writ petition is liable to be dismissed.

7. Having considered the rival submissions made by respective parties and material on record, it clearly reveals that respondent No.3 had initiated *suo moto* proceedings *vide* Case No.TWA1/1285/87 against Ramesh and Raghvloo, in respect of land an extent of 0.48 and 0.88 cents in Sy.Nos.440/B, 442/B, (2) TWA1/1286/87 against Baktaiah and D. Pushpa Bai in respect of land to an extent of 0.35 cents in Sy.No.440/C and (3) TWA1/1292/1987 against Ashafaz Hussain, D.Raghvloo and D. Sriramulu in respect of land to an extent of 1.68 cents in Sy.No.467/1 by exercising the powers conferred under the Regulation and after following the due procedure as

contemplated under law passed the ejectment orders on 14.08.2008 on the ground that the subject lands are situated in the scheduled area and the parties have contravened the provisions of the Regulation. The predecessors of the petitioners have filed three appeals before respondent No.2 and the same were dismissed by its order dated 08.06.1990. Questioning the said orders, the predecessors of the petitioners have filed three writ petitions viz., (1) W.P.No.10488 of 1990, (2) WP No.10450 of 1990 and (3) W.P. No.10452 of 1990 before this Court and the same were dismissed on 27.02.2004 and the orders passed by this Court has become final and binding upon all the parties concerned including the petitioners also.

8. It further reveals from the record, that after dismissal of the writ petitions, respondent No.4 issued notice dated 27.12.2006 and had taken possession of the subject lands into Government custody on 05.01.2007. Thereafter, the predecessors of the petitioners viz., Pushpa Bai and others have filed Revision Petition No.1086/LTR-2/2007-2 before respondent No.1 questioning the orders of the respondent No.2 dated 08.06.1990 and proceedings of the respondent No.4 No.B/631/2004 dated 27.12.2006. The respondent No.1

rejected the stay petition by its order dated 06.03.2007. Questioning the same, they filed W.P. No.7703 of 2007 before this Court and the same was dismissed on 16.04.2007. However, directed the respondent No.1 to consider and dispose of the representation, if any and if it is maintainable, in accordance with law.

9. It is significant to mention here that the Revision Petition filed by Smt.Pushpa Bai and others who are the predecessors of the petitioners, questioning the orders dated 08.06.1990 passed by respondent No.2 in three independent appeals vide Appeal Nos.D4/Ag/66/87, D4/Ag/67/87 and D4/Ag/68/87 and consequential notice issued by respondent No.4 in proceedings No.B/631/2004 dated 27.12.2006 is not maintainable under law on two grounds; i.e. firstly (i) that the predecessors of the petitioners have filed three independent writ petitions viz., (1) W.P.No.10488 of 1990, (2) WP No.10450 of 1990 and (3) W.P. No.10452 of 1990 before this Court questioning the very same orders passed by respondent No.2 dated 08.06.1990 and the said writ petitions were dismissed on merits by its order dated 27.02.2004 and the order passed by respondent No.2 was

merged in the said writ petitions and the orders of this Court have become final and binding upon all the parties concerned including the petitioners in the writ petition on hand. Secondly, (ii) against the orders passed by respondent No.2 in three independent appeals the predecessors of the petitioners viz., Smt.Pushpa Bai and others have filed only one Revision Petition vide 1082/LTR-2/2007-2 on 01.02.2007 and the same is also not maintainable under law.

10. The Revisional Authority/respondent No.1 after considering the grounds raised by the petitioners therein and material evidence on record rightly dismissed the Revision Petition and passed the impugned order vide G.O.Ms.No.31 Tribal Welfare (LTR) Department, dated 29.09.2018, and there is no illegality, irregularity or jurisdictional error in the impugned order, to exercise the jurisdiction of this Court under Article 226 of Constitution of India, as the scope of Judicial Review is very limited and there is no merit in the writ petition and the same is liable to be dismissed.

11. Accordingly, the writ petition is dismissed. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition, shall stand closed.

JUSTICE J. SREENIVAS RAO

28th February, 2023

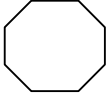
Skj

Note

L.R. Copy to be marked : **'Yes'**.

B/o.
Skj.

HON'BLE SRI JUSTICE J. SREENIVAS RAO



WRIT PETITION No.49 OF 2019

Date : 28-02-2023

Note

L.R. Copy to be marked : **'Yes'**.

B/o.
Skj.

