

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

W.P.No.24274 OF 2020

Between:

B.Venkateswarlu & others

... Petitioners

And

The State of Telangana and others

... Respondents

JUDGMENT PRONOUNCED ON: 21.12.2023

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?

SUREPALLI NANDA, J

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION No.24274 OF 2020

% 21.12.2023

Between:

B. Venkateswarlu & others

... **Petitioners**

And

\$ The State of Telangana and others

... **Respondents**

< Gist:

> Head Note:

! Counsel for the Petitioners : Mr.T.P.Acharya

^ Counsel for Respondents : G.P. for Revenue

? Cases Referred:

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HON'BLE MRS JUSTICE SUREPALLI NANDA**WRIT PETITION No.24274 OF 2020****ORDER:**

Heard Mr.T.P.Acharya, learned counsel appearing on behalf of the petitioners and learned Government Pleader appearing on behalf of respondents.

2. The petitioners have approached this Court, seeking the following relief:

"To issue a Writ, order or Direction, more particularly, one in nature of a Writ of Mandamus, declaring the action of the respondents herein in not issuing the pattadar passbooks and title deed (e-passbooks) for the land situated in Sy.No.578, to an extent of Ac.5-00 Gts., and not recording the same in the Dharani website, as illegal, arbitrary, unconstitutional and contrary to the provisions of the Telangana Rights in Land and Pattadar Passbooks Act, 2020, and consequently praying this Hon'ble Court to direct the 4th respondent to issue e-passbooks for the land in Sy.No.578/2/4 of Sudimalla Village of Yellandu Mandal, Bhadradi-Kothagudem District, and pay the benefits under Rythu Bandu Scheme."

3. The case of the petitioner's father one Bhingi Venkateshwarlu S/o. late Narsaiah, who had filed the present writ petition initially and had died during the pendency of the present writ petition on 08.10.2021 and the petitioners 2 to 4 herein being the wife and two sons of late Bhingi Venkateshwarlu (original writ petitioner) have come on record as per the orders of Court dated 17.11.2021 passed in I.A.No.1 of 2021, in brief, as per the averments made in the affidavit filed in support of the present writ petition, is as under:

Petitioner's late father Bhingi Narsaiah was the absolute owner and pattadar of the land in Sy.No.336/A/2, total extent of Ac.2.13 Gts., (to an extent of Ac.1-10 Gts., and Ac.1-03 Gts.) and also in possession and enjoyment of Ac.5-00 Gts., in Sy.No.578, situated at Sudimalla Village of Yellandu Mandal, Bhadradri-Kothagudem District and enjoying the same as absolute owner. The said land was acquired by the Government of Andhra Pradesh in the year 1952 for the purpose of running of a tribal school and in lieu of the same, had been allotted and given possession of Ac.5.00 Gts., of land in Sy.No.578 in addition to Ac.5.00 Gts., of land which was in possession of petitioner's late father. Thus, petitioner's family became absolute owner and

possessor of the land in Sy.No.578, admeasuring Ac.10.00 Gts., and the same is in petitioner's enjoyment since more than 6 decades. While so, the 4th respondent issued proceedings No.A3/462/1984 dated 01.10.1984 seeking to evict petitioner's father to an extent of Ac.5.00 Gts., of land under the provisions of the Land Encroachment Act. Questioning the orders of the 4th respondent, the petitioner's father filed an Appeal vide C.M.A.No.19/84 and the appellate Court after considering the entire material disposed of the appeal on 30.01.1987 stating that petitioner's father was in possession of Government land prior to 1960-61 onwards and entitled for concession granted by the Government in terms of G.O.Ms.No.41 Revenue D Department, dated 12.01.1971, being landless poor person and allowed the appeal with a direction to the 4th respondent not to disturbed possession of petitioner's father. Contrary to the said orders of the appellate authority, the respondents 1 and 2 forcibly took an extent of Ac.4-35 Gts., out of Ac.5-00 Gts., of land and allotted the same for the purpose of construction of 133/33 K.V. Sub-Station in Sudimalla Village of Yellandu Mandal without paying any compensation under the provisions of the Land Acquisition Act. Questioning the said action, petitioner and 16 others filed a writ petition in W.P.No.44399 of 2016 to direct the respondents

to pay compensation and provide employment under Land Losers Scheme and the said writ petition is pending for adjudication on the file of this Court.

It is further the case of the petitioners that during the life time of the petitioner's father late Narasaiah an extent of Ac.4-35 Gts., was acquired for the purpose of construction of 133/33 K.V. Sub-Station in Sudimalla Village of Yellandu Mandal, without initiating land acquisition proceedings and for the remaining extent of Ac.5-00 Gts., Virasat has been sanctioned in petitioner's favour and land was mutated on petitioner's name vide Katha No.486, duly issuing pattadar passbooks and Title Deeds bearing No.122110.

It is further the case of the petitioners that when the respondents started interfering with petitioner's possession over the land in Sy.No.578, for which, passbooks had been issued, petitioner filed a suit O.S.No.52 of 1994 on the file of District Munsiff, Yellandu and sought for ad-interim injunction in I.A.No.200 of 1994 restraining the respondents herein in interfering with the possession of the suit schedule property and when the trial Court rejected to grant injunction in I.A.No.200 of 1994, the petitioner filed C.M.A.No.19 of 1995 on the file of Sub-ordinate Judge, Kothagudem and the Court granted

injunction on 20.12.1996 and during the operation of the said injunction, when the respondents tried to dispossess petitioner forcibly, petitioner filed W.P.No.2878 of 2009 directing the respondents not to dispossess the petitioner from agricultural land admeasuring Ac.5-00 Gts., in Sy.No.578 of Sudimalla Village of Yellandu Mandal, without following due process of law and since the date of interim orders, the petitioner had been in continuous and uninterrupted possession and enjoyment of the property as an absolute owner. The Village Revenue Officer had conducted a detailed enquiry and confirmed vide Letter dated 06.02.2008 stating that petitioner's land in Sy.No.336/A/2 to an extent of Ac.2-13 Gts., was acquired by the Government for the purpose of construction of tribal school, and in lieu of the same, an extent of Ac.10-00 Gts., was allotted to petitioner's family and petitioner's late father was in possession of an extent of Ac.5-00 Gts., and the remaining extent of Ac.5-00 Gts., is in petitioner's possession and the balance extent was given to some bricks factory. Basing on the enquiry, and after conduct of survey, the office of the 4th respondent had issued pattadar passbooks in petitioners favour under the provisions of ROR Act, 1971 and the Rules made thereunder. However, the respondents had denied to issue new passbooks (e-passbooks) to the

petitioners and also not released the Rythu Bandhu amounts stating that the records are not uploaded. The petitioner had made a detailed representation and personally approached the respondents office several times requesting to issue new pattadar passbook and title deed and also to pay the benefits legally entitled as per Rules under the Rythu Bandhu Scheme and the respondents without assigning any reason had not considered petitioner's request for issuance of e-passbooks stating that that records are not uploaded. Aggrieved by the same, the petitioners approached the Court by filing the present writ petition.

PERUSED THE RECORD :

4. Land ownership certificate dated 06.02.2008 issued by the Village Revenue Officer, Sudimalla, Yellandu Taluk, Khammam District to the petitioner and his father, reads as under:

“Office of the Grampanchayat,
Suraram Village,
Yellandu, Khammam District.

1. Bhingi Narsaiah, S/o. Papaiah, R/o. Hanumanthulapahad, H/o.Sudimalla Village inSy.No.578 extent Ac.5-00 of Dry Land – Possession since 1952.

2. Bhingi Venkateswarlu, S/o. Narsaiah, R/o. Hanumanthulapahad, H/o. Sudimalla Village in Sy.No.578 extent Ac.5-00 of Dry Land – Possession since 1952.

The lands above mentioned were given to the above persons as an alternative land by the Government of Andhra Pradesh through the Social Welfare Department in-exchange of their patta lands in Sy.No.336/A/2, Ac.1-10 Gts and Sy.No.336/A/2, Ac.1-03 Gts, total extent of Ac.2.13 Gts., in the year 1952 for the purpose of running school, weaving etc for the tribles. The lands were given in possession to the above in Sy.No.578 and handed over as an alternative and eversince 1952 the above named persons have been in possession and enjoying the same and also paying the cist. The above said land is an agricultural land and a piece of small extent which is vacant is being used temporarily with the consent of the above said persons by the adjacent patta owner for the purpose of keeping material as he was doing cement bricks business. I have enquired in the village as per the Revenue Records and found this to be correct."

5. Counter affidavit filed by the 4th respondent, in particular, para 3 the relevant para, reads as under:

"3. It is submitted that as per the entries in the Revenue records, the land in Sy.No.578 is Government land the persons who are in possession and enjoyment of the Government land, their names will be recorded in B.Memos as Siva-Jamadars and if they are eligible, they will be considered for assignment of Government land. In the

instant case, the village Sudimalla is declared as Schedule village and non-tribals are not eligible for assignment of Government land and only tribals are eligible for assignment. Therefore, the petitioner is not entitled to claim the land. The contention of the petitioner is that the then authorities granted pattadar Pass Book vide Khata No.486, bearing No.122210 and the same is erroneous and against the provisions of the A.P. (Scheduled Areas) Land Transfer Regulations, 1959. The writ petitioner as well as his father during life time, approached this Hon'ble Court on one pretext or other in the same subject matter, and filed various cases. There is an imperative need to this respondent, to bring to the notice of the Hon'ble Court the factual matrix involved in this case.

The Pattadar Pass Book bearing No.122110 said to have been issued to him, might have been erroneously issued and the same is liable for cancellation. The verification of record shows that there are no entries of patta in the name of petitioner in the village records and also in online pahanie. Therefore, the petition filed is not maintainable and liable for dismissal with costs."

6. Learned counsel appearing on behalf of the petitioners mainly puts forth the following submissions:

- (i) The petitioner is entitled for issuance of new passbooks (e-passbooks) and recording the petitioners name in Dharani website and the respondents being the Regulatory Authority are not

having any power or authority to withhold the pattadar passbooks and title deeds as per the provisions of A.P. Record and Rights in Land and Pattadar Pass Books Act, 1971.

- (ii) The petitioners are deprived of the various benefits including obtaining loans from the banks and financial institutions, the request of the petitioners for issuance of passbooks stating that the records are not uploaded is illegal and arbitrary.
- (iii) The 4th respondent who is competent authority under the provisions of Telangana Rights in Land and Pattadar Passbooks Act, 2020 by following the procedure contemplated under Sections 5 to 7 of the RoR Act, 2020, failed to discharge its duty for issuing pattadar passbooks and title deeds under the provisions of the RoR Act to the petitioners in spite of several representations made by the petitioners in this regard.

Based on the aforesaid submissions, the learned counsel for the petitioners prayed that the writ petition should be allowed as prayed for.

7. Learned Government Pleader appearing on behalf of the respondents placing reliance on the counter affidavit filed by the 4th respondent puts forth the following submissions:

- (i) The Pattadar Passbooks might have been erroneously issued and the same is liable for cancellation.
- (ii) The verification of the records shows that there are no entries of patta in the name of the petitioners in the village records and also in the online pahani, and the writ petition is therefore, not maintainable and is liable to be dismissed.

DISCUSSION AND CONCLUSION.

DISCUSSION:

8. Originally, the writ petition had been filed by one Bhingi Venkateswarlu, son of Narsaiah and during pendency of the said writ petition, the petitioner died on 08.10.2021 and thereafter the petitioners 2 to 4 herein being the wife and two sons of late Bhingi Venkateswarlu (original writ petitioner) have come on record as per the orders of the Court dated 17.11.2021 passed in I.A.No.1 of 2021. A bare perusal of the contents of the Land Ownership Certificate dated 06.02.2008 clearly indicates that the subject lands were handed over to the husband of the 2nd

petitioner Bhingi Venkateswarlu and to the father-in-law of the 2nd petitioner i.e., Bhingi Narsaiah, through Social Welfare Department by the Government of Andhra Pradesh in-exchange of their patta lands in Sy.No.336/A/2 Ac.1-10 Gts and Suy.No.336/A/2 Ac.1-03 Gts, total extent of Ac.2-13 Gts in the year 1952 for the purpose of running school, weaving etc., for the Tribes. The lands were given in possession and ever since 1952 in-exchange of their lands in Sy.No.578 i.e., total extent of Ac.5-00 Gts + Ac.5-00 Gts of dry land in Sudimalla Village and ever since 1952 they had been in possession and enjoying the same and also paying the cist in the subject land received by them in-exchange of their patta land is agricultural land. The record also indicates that the second petitioner's late husband Bhingi Venkateswarlu had addressed a representation dated 23.05.2020 to the 4th respondent herein and requested to issue pattadar passbooks for the land in Sy.No.578/2/4, admeasuring Ac.5-00 Gts in Sudimalla Village, Yellandu Mandal, clearly referring to the fact that petitioner earlier obtained patta for the land admeasuring Ac.5-00 Gts and was issued pattadar passbooks vide Katha No.486 bearing No.122110 and enjoying the subject land with absolute rights. However, the grievance of the petitioner is that the said representation had not been

considered as on date by the 4th respondent or any action had been initiated by the 4th respondent herein in issuing pattadar passbooks over the land in Sy.No.578/2/4 to an extent of Ac.5-00 Gts of Sudimalla Village of Yellandu Mandal, Badradri-Kothagudem District.

CONCLUSION:

9. This Court opines that in view of the fact that it is admitted at para 3 of the counter affidavit filed by the 4th respondent that the then authorities granted pattadar passbook vide Katha No.486 bearing No.122210 and the fact the petitioners are in possession of the subject land as per the Land Ownership Certificate dated 06.02.2008 issued by the Village Revenue Officer, Sudimalla, Yellandu Taluk, Khammam District, since 1952, as alternative land given by the Government of A.P. through the Social Welfare Department to the late husband of the second petitioner and the father-in-law of the second petitioner in-exchange of their patta lands in Sy.No.336/A/2 Ac.1-10 Gts and Sy.No.336/A/2 Ac.1-03 Gts, total an extent of Ac.2-13 Gts in the year 1952 for the purpose of running school, weaving etc., for the tribals and that since 1952, and since the petitioners had been in possession of the subject land, this Court

opines that the representation of the petitioner dated 23.05.2020 needs consideration by the 4th respondent herein.

10. Taking into consideration the aforesaid facts and circumstances of the case and the contents of the Land Ownership Certificate dated 06.02.2008 issued by the Village Revenue Officer, Sudimalla, Yellandu Taluk, Khammam District, the 4th respondent herein is directed to consider the representation of the petitioner dated 23.05.2020 pertaining to petitioners request for issuance of pattadar passbooks and title deeds for the land in Sy.No.578/2/4 admeasuring Ac.5-00 Gts., Sudimalla Village, Yellandu Mandal, Bhadradri-Kothagudem District, within a period of four (04) weeks from the date of receipt of a copy of this order and pass appropriate orders upon petitioner's representation dated 23.05.2020 in accordance to law, and duly communicate the decision to the petitioner.

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

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

SUREPALLI NANDA, J

Date: 21.12.2023

Note : L.R. Copy to be marked.

B/o.

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