

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

WRIT PETITION No.14487 OF 2021

Between:

Sri Dayara Susheela and others

... Petitioners

And

The State of Telangana and others

... Respondents

JUDGMENT PRONOUNCED ON: 18.07.2023

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
marked to Law Reporters/Journals? : yes
3. Whether Their Lordships wish to
see the fair copy of the Judgment? : yes

SUREPALLI NANDA, J

THE HON'BLE MRS JUSTICE SUREPALLI NANDA**WRIT PETITION No.14487 OF 2021**

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> Head Note:

! Counsel for the Petitioners : Mr D.V.Sitharam Murthy
Sr Designated counsel

^ Counsel for Respondents : G.P. for Revenue

? Cases Referred:

1. 2014 (4) ALD 358
2. 2008 (4) APLJ 6
3. 2009 SCC online AP 972

HON'BLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION No.14487 OF 2021

ORDER:

Heard the Learned Senior Designate Counsel Mr. D.V. Sitharama Murthy appearing on behalf of the Petitioners and learned Assistant Government Pleader for Revenue appearing on behalf of the Respondents.

2. This Writ Petition is filed praying to issue a Writ of Mandamus declaring the action of the Respondents in including property of an extent of Ac. 13.26 gts of land forming part of the total extent of Ac 56.16 guntas of land situated in Sy No 201/2 to 201/26 at Yadgarpalli East Village Keesara Mandal Medchal Malkajgiri District Telangana belonging to the Petitioners in prohibitory list under Section 22 (A)(1)(b) of the Registration Act 1908 as being government land without any gazette notification and rejecting the plea of the Petitioners to delete the lands from prohibitory list vide proceedings No E1/248/2017 dated 12.02.2021 which were communicated vide Endorsement No E2/1351/2019 dated 20.02.2021 as being illegal and the action of the Respondent No.7 in refusing to entertain any

deeds of conveyance for registrations pertaining to the said extent of lands as illegal arbitrary and unconstitutional in violation of provisions of the Registration Act and consequently direct the Respondents to delete the subject property of an extent of Ac 13.26 guntas of land forming part of the total extent of Ac 56.16 guntas of land situated in Sy No 201/2 to 201/26 at Yadgarpalli East Village Keesara Mandal Medchal Malkajgiri District Telangana from the prohibitory list under Section 22(A)(1).

3. The case of the petitioners, as per the Writ Affidavit is as follows:

- a) Petitioners' are the absolute owners and title holders of the land to an extent of Ac. 13.26 guntas, forming part of the total extent of Ac.56.16 guntas of land situated in Sy. No. 201/2 to 201/26 at Yadgarpalli, Keesara Mandal, Medchal-Malkajgiri, Telangana.
- b) Petitioners are the legal heirs and descendants of the original assignees and have been in possession and enjoyment of subject land prior to 1945 and the names of the forefathers of the petitioners have been recorded in the revenue records as early as 1954-1955.

c) The Land in Sy.No. 201 was originally assigned to one Mr. Dappu Maisaiah and 34 others in accordance with G.O.Ms.No. 1724 dated 26.08.1959.

d) The said survey no. 201 of Yadgarpalli has a total extent of Ac.136.20 guntas, out of which, 83.00 guntas were cleared and are being cultivated by harijans and backward classes of Yadgarpalli Village.

e) Further, the lands in Sy.No 201 were sub-divided into Sy.No's 201/2 to Sy.No's 201/26 and the extent of land held by One Mr. Dappu Miasaiah and 34 others were demarcated in the revenue records as pattedar and possessor columns. Even in the Khasara Pahani for the year 1954-1955, the subject land in Sy.No.201 of Yedgarpalli Village was shown as "Poramboku-Sarkari" and the names of One Mr. Dappu Miasaiah and 34 others were demarcated to the extent of land in their possession and the same had been recorded in the Sesala Pahani records for the years 1955-1958.

f) Prior to issuance of G.O.Ms.No. 1406 dated 25.07.1958, (which had prohibited the alienation of government land to landless poor or other persons) assignments were made in the subject land in Sy.No. 201 at Yedgarpalli Village, in

accordance to Circular No.14 dated 08.11.1954, which did not contain any prohibition whatsoever, against which the petitioners do not have pattedar passbooks, as the same had been lost. Petitioners had requested respondent no. 6 and 7 to furnish the passbook copies but were informed that, pattas were not traceable and are unavailable.

g) The Government issued G.O.Ms.No.1724 dated 26.08.1959, relaxing and clarifying rules for assignment of government lands notified vide G.O.Ms.No.1406 dated 25.07.1958. It had been clarified that, land which were assigned under Circular no.14 were to be dealt/apply the rules of those circulars only and not as per the new rules of assignment under G.O.Ms.No. 1406, dated 25.07.1958.

h) It was later learnt that the subject lands in Sy.No. 201 were placed in prohibited properties under section 22-A and after pooling some funds, petitioners have made representation to respondent no.2 seeking deletion of subject land admeasuring Ac. 56.16 guntas out of Ac.81.07 Acres.

i) Without considering or assigning any reason, respondent no.2 and 3 had rejected the proposals. The 3rd respondent had asked for an enquiry report from the 7th

respondent, with regards to details of land for de-notification and deletion from prohibited list, along with a note file and also an enquiry report vide proceedings No.B/1587/2020 dated 03.12.2020.

j) The note file sent to the 3rd respondent by 7th respondent, clearly states that petitioners and the predecessors of the petitioners have been in continuous possession and have been paying revenue tax.

k) Moreover, the 7th respondent in the note file and also in the enquiry report requested the 3rd respondent for grant of NOC, deletion of the land in Subject Survey No. 201 of Yedgarpalli village and also for de-notification of Ac.56.16 guntas out of Ac.81.07 guntas of land in Survey No. 201.

l) It was further noted that, the provisions of Andhra Pradesh Assigned Lands (Prohibition of transfer) Act, 1977, the G.O.Ms.No.1406, Revenue dated 25.07.1958 and Telangana New Revised Assignment Policy are not applicable to the lands in Survey No. 201 of Yedgarpally village.

m) Even though the 7th respondent had in the Note file and Enquiry Report had requested for grant of NOC on the subjected lands, but in the check memo submitted to the 2nd

respondent, the grant of NOC was not requested stating that it was government land.

n) The action of the 2nd respondent in rejecting the de-notification of the subject land is baseless and without assigning any reasons whatsoever. The 7th respondent citing the prohibitory properties list maintained under Section 22A of the Registration Act, is refusing to register the subject land and to entertain any deed of conveyance.

o) Moreover, the subject land has not been notified under any Gazette but had been placed in the prohibitory list pursuant to the letter addressed by Respondent no.7 vide B/1288/2008 dated 26.05.2008, requesting to place subject lands in prohibitory list and such action of placing the subject lands in prohibitory list without the same being placed in any Gazette is arbitrary and illegal.

4. The Case of the Respondents, in brief, is as follows, as per the Counter Affidavit:

a) The subject property to an extent of Ac.16.06 guntas out of Ac.56.16 guntas of the land situated in Sy.No.201/2 to 201/26 at Yadgarpalli Village, was kept in Prohibitory list vide proceedings No.E1/248/2017 dated 12.02.2021 under section

22 (A)(1)(b) of the Registration Act, 1908, as the same being the government land and the same had been communicated vide Endorsement No.E2/1351/2019 dated 20.02.2021, as the land originally being classified as Poramboke lands, the plea of the petitioners to delete the subject land from prohibitory list had been refused by the District Collector, Medchal-Malkajgiri District.

b) Since the inception of Dharani and the implementation of The Telangana Rights in Land and Pattadar Pass Books Act, 2020, any and all application's for mutation had to be through Dharani website only and as such, the respondents have never received any application for mutation pertaining to Sy.No.201 of Yedgarpally village.

c) Since the predecessors of the petitioners were cultivating the subject land from 1951, laonipattas were assigned in accordance to G.O.Ms.No.1724 dated 26.08.1959 and were granted Laoniljafa.

d) The Total extent i.e., Ac. 136.20 guntas in Sy.No. 201 of Yedgarpally village, is recorded as "Sarkari" and as per Khasara Pahani the subject land is recorded as "Poramboke-Sarkari" and one Mr. Dappu Maisaiah and 34 others were

recorded as Khabjadars and these khabjadars were granted Laonipattas and were granted assignment in accordance with G.O.Ms.No. 1724 of 1958 dated 26.08.1958 and further, after the commencement of G.O.Ms.No. 1406 of 1958 dated 25.07.1958, the lands assigned were only heritable but not alienable.

e) The Divisional Forest Officer, Hyderabad had made a representation to Tahsildhar, Medchal on 27.10.1959 that Sy.No. 201 of Yedgarpalli falls under block no.1 of the forest and during the joint inspection it has been found that Ac.83 guntas of land had been encroached leaving a balance of Ac.53 guntas and hence recommended in deletion of block no.1 from the records.

f) The total extent of land in Sy.No.201 of Yedgarpally village, i.e., Ac.136.20 guntas is purely government land and there had been agricultural encroachment by poor harijans and hence laonilzafas was granted to one Mr. DappuMaisaiah and 34 others as there was ban on assignment of Poramboke land under G.O.Ms.No.1406 of 1958 and the same had been relaxed by G.O.Ms.No.1724 of 1958 dated 26.08.1958 and further the assignment was made under the land less poor

being in occupation of land as described in BSO 15 and the encroachers were brought on record as pattedars and the land had been classified as Laonipatta.

g) The encroachers/illegal occupants being under the category of land less poor, they were granted Laoniljafa under Special Laoni rules vide G.O.Ms.No. 1724 of 1959 by duly imposing tax for the same.

h) Since the assignment had been after the commencement of revised assignment policy vide G.O.Ms.No. 1406 dated 27.07.1958, the land is heritable but not alienable and for the reason the assignees are recorded in pattedar and occupant column classifying the land as Laonipatta.

i) The assignment of lands were not made under Circular No.14 dated 18.11.1954 but under G.O.Ms.No.1406 of 1958 dated 25.07.1958, which prohibits the alienation of Poramboke lands and further, the G.O.Ms.No.1724 of 1959 dated 26.08.1959 is only an amendment to G.O.Ms.No.1406 of 1958 dated 25.07.1958.

j) Against the resumption of land to government custody, no appeal had been filed, which only construes that the

assignees are aware that it is the Government land and is assigned with a condition of non-alienation.

k) At present, the land in Sy.No.201 is mostly kept padav and agriculture is limited to an extent of nearly Ac.5.00 guntas only. The land to an extent of Ac.54.00 guntas is handed over to HMDA to form layout for the land losers in ORR project and since the land is poramboke, the land is alienated in favour of HMDA. Hence there are no merits in the Writ Petition and the same is liable to be dismissed.

PERUSED THE RECORD :

5. Counter affidavit filed by the respondents, in particular, para 7 and 15 reads as under :

"7. It is respectfully submitted that the allegations made in paraNo.5,6,7&8, I submit that, as per sethwar of Yadgarpally (East) village, Sy.No.201 total extent Ac. 136-20 guntas is recorded as "Sarkari" and as per the Khasra Pahani is recorded as "Poramboke-Sarkari" in the pattedar column and Sri Dappu Maisaiah and (34)others (forefathers of petitioners herein) are recorded in possession column as khabjadars. **Further, the khabjadars, the illegal occupants were granted laoni patta i.e., were granted assignment in accordance with Revenue GO Ms No. 1724 of**

1958 Dt:26.08.1958 and Rs 81-22NP to an extent Ac81-07Gts sanctioned as laoni Ijafa by the Tahsildar, Medchal Taluga. Further it is submitted that, after the commencement of GO Ms No. 1406/1958 Dt: 25.07.1958 the lands assigned are only heritable but not alienable.

15. As stated above the land is classified under Sarkari Poramboke and there is absolute prohibition of Pormboke lands. As such the assignments were not issued to the original assignees in view of the prohibition contained in G.O.Ms.No.1406. However, the Government issued G.O.Ms.No.1724, dated 26-08-1958, where under a revised policy was issued where under in Clause (1) Poramboke lands shall be alienable from the category lands not available for assignment and they should be made assignable. In view of the same the assignments were made to the assignees under G.O.Ms.No. 1724. Furthermore, GO.Ms.No.1724 is only a modification to the original G.O.Ms.No.1406 and all other terms and conditions under G.O.Ms.No.1406 remained intact.

It is also necessary to submit that as per Clause 6 sub-clause (i) The assignment of lands shall be free of market value: (ii) Land assigned shall be heritable but not alienable: (iii) land assigned shall be brought under cultivation within 3 years. It is also necessary to submit that clause (15) contemplates that "all pending assignment proceedings now pending or arising

hereafter shall be disposed of in accordance with these rules" i.e., G.O.Ms.No.1406., Therefore the claim of the petitioners that the assignments were made in accordance with circular No.14, dated 18-11-1954 and not under G.O.Ms.No.1406, dated 25-07-1958 is a blatant lie. Even though the original assignees were in possession of the land from 1951 but the very assignment was made in the year 1960 which is much subsequent to the issuance of G.O.Ms.No.1406. It is also the pleaded case of the petitioners that the assignments were made in accordance with G.O.Ms.No.1724, dated 26-08-1959. As stated above G.O.Ms.No. 1724 is only an amendment exempting in the Poramboke Lands for assignment and the other terms and conditions of the assignment remained intact as per original G.O.Ms.No.1406, the fact that the assignments were made under G.O.Ms.No.1724, was also reflected in Chesala Pahani of the year 1960-61, and also pleaded that the case of the petitioners is devoid of merits."

6. It is considered necessary to examine Section 2(1) of the POT Act which is extracted below for the sake of convenience:

2. Definitions:- In this Act, unless the context otherwise requires, -

- (1) "assigned land" means [lands or house sites assigned] by the Government to the [landless or homeless or homeless poor persons] under the rules for the time being in force, subject to the condition of non-alienation and includes lands allotted or transferred to landless or homeless poor persons under the relevant law for the time being in force relating to land ceilings; and the word assigned" shall be construed accordingly;

The above definition makes it clear that a land to be treated as an assigned land, within the meaning of POT Act, should be burdened with a condition of non-alienation."

DISCUSSION AND CONCLUSION :

7. A bare perusal of the proceedings No.E1/248/2017, dated 12.02.2021 which were communicated with endorsement No.E2/1351/2019, dated 20.02.2021, by the 2nd respondent herein in response to petitioners' request to denotify the land in Survey No.201/2 to 201/26 at Yadgarpalli Village, Keesara Mandal, Medchal – Malkajgiri District, Telangana to an extent of Ac.56.16 gts from prohibited

properties list simply indicates that the 2nd respondent committee has rejected the proposals placed before the District level committee. Except for the said cryptic statement no reasons are assigned by the 2nd respondent herein in rejecting petitioners' request to de-notify the subject land in Survey Nos.201/2 to 201/26 to an extent of Ac.56.16 guntas situated at Yadgarpalli Village, Keesara Mandal from prohibited properties list.

8. A bare perusal of the contents of the endorsement dated 20.02.2021, vide No.E2/1351/2019 of the Additional Collector, Medchal-Malkajgiri District, filed as material document by the petitioners in support of the present writ petition indicates that a representation has been made by Sri D. Krishna and others vide letter dated 11.01.2019 with a request to denotify the land in Sy.No.201/2 to 201/26 at Yadgarpalli Village, Keesara Mandal, Medchal-Malkajgiri District, Telangana, to an extent of Ac.56.16 gts., from prohibited properties list and the said proposals had been placed before the District Level Committee meeting held on 23.01.2021

and the Tahsildar, Keesara Mandal had informed that the land in Sy.No.201/2 to 201/26 are classified as Government lands and hence not recommended for issue of NOC. Therefore the Committee has rejected the proposals for de-notification of land bearing Sy.No.201/2 to 201/26 of Yadgarpalli Village, Keesara Mandal, Medchal-Malkajgiri District, Telangana, as the subject land is Government land.

9. A bare perusal of the contents of the report of the Tahsildar, Keesara Mandal, Medchal-Malkajgiri District addressed to the Revenue Divisional Officer, Keesara Division, vide Lr No.B/1587/2020, dated 03.12.2020 clearly indicates that as per the revenue records the land bearing Sy.No.201 comprises of total extent of Ac.136.20 gts., and as per setwar the subject land is recorded as "Sarkari". As per the Khasara Pahani, it is recorded as "Poramboke Sarkari" in the pattadar column and in possession column, assignees names were found recorded i.e. the names of predecessors of the Petitioners were found recorded. As per the latest

online pahani the Survey No.201 to an extent of Ac. 48.10 gts., is recorded as Government land, an extent of Ac.3.00 gts., is recorded as House sites (2BHK) and the remaining extent is classified as "Laoni Patta" and the names of the assignees are recorded both in the patta as also in the occupant column. Right from Khasara Pahani to till latest pahani's the names of the assignees and subsequently their LRs names are recorded constantly and at present the subject Sy.No.201/1 to 201/26 on ground is under cultivation by the assignees by laying paddy to some extent and the remaining extent is kept "Padava".

10. In the said report it is further stated that the names of the assignees were also incorporated in the Faisal patti for the year 1960-61 for the Sy.No.201 to an extent of Ac.81.07 gts., and also "Laoni-Izafa" was sanctioned to 35 members (Dappu Maisiah & 34 others). In the subject Sy.No.201 only to an extent of Ac.81.07 gts., out of total extent of Ac.136.20 gts., under Special Laoni Rules (G.O.Ms.No.1724 of 1959) to the persons mentioned in the Laoni statement duly

imposing tax for Rs.81.22. It is further stated in the report dated 03.12.2020 of the 7th respondent that subsequently supplementary setwar was also issued by the A.D., S & LR's vide File No.G/Ass/5468/1979, subdividing the Sy.No.201 as 201/2 to 201/26 but the same was not implemented in the village map.

11. A bare perusal of the report dated. 03.12.2020 further indicates that as per the original assignment file No.A7/3430/1958 it is observed that the file is maintained in Urdu-language which is not comprehensible and File No.4/Res/1951, dated 24.10.1959, the Divisional Forest Officer, Hyderabad, has addressed a letter to the Tahsildar, Medchal Taluk, stating that an extent of Ac.83.00 has been encroached by 23 persons since 1951, leaving a balance of only Ac.53.00 and hence recommended for deletion of Block No.I i.e., Yadgarpalli (I), Sy.No.201 to an extent of Ac.136.20 gts., from Forest records. Moreover, on examination of some noting therein (A7/3430/1958) it is observed in the said report that it is clearly established that Sy.No.201 consisting of Ac.136.20 gts.,

situated at Yadgarpalli Village, and the nature of the land is Poramboke out of which an extent Ac.83.33 gts., is being cultivated by the poor Harijans since 9 years, who had been paying Shivai Jamabandi (1 rupee per acre) and that an enquiry report has been called for from the then VRO, Yadgarpally (V) with regard to the ground status of the land in question and in turn the VRO, Yadagarpally (V) reported that since 50 years the assignees are in possession of the above land duly cultivating the same and prepared a list of assignees who are in possession on ground. The list of assignees who are under cultivation in the Sy.No.201 of Yadgarpalli (V) as per the then VRO report in File No.A7/3430/1958, gave details of 35 names of the assignees and also the extents of land assigned to them duly bringing the said details on record in the said report.

12. It is clearly observed in the report dated 03.12.2020 of the Tahsildar, Keesara Mandal that from the noting it is clear that the file was put up in the year 1958 and the assignees are in possession of the subject

land prior to Independence itself i.e., prior to the commencement of Assignment Policy and on verification of 22-A Register the Sy.No.201 of Yadgarpally (V) is recorded under prohibited list of properties and further that the Petitioners/Assignees are requesting now for de-notification of the subject land from the 22-A prohibited list as the subject lands are under their possession since long, as such it does not attract provisions of the new revised Assignment Policy as well as POT Act, 1977 and hence requested to consider their request for de-notification of land in Sy.No.201 to an extent of Ac.56.16 gts., situated at Yadgarpalli Village, Keesara Mandal.

13. This Court takes note on perusal of the record that as per G.O.Ms.No.1406, Revenue, dated 25.07.1958 the categories of lands not available for assignees are poramboke lands whereas as per G.O.Ms.No.1724, Revenue Department, dated 26.08.1959 the Poramboke lands stand eliminated from the category of lands not available for assignment and further they are made assignable. Clause 7(a) of the said G.O.Ms.No.1724,

Revenue Department, dated 26.08.1959 refers to pending cases and the same reads as under :

VII – Pending cases

- (a) Lands to which circular No.14, dated 08.11.1954 issued by the erstwhile Hyderabad Government and the other circulars issued in clarification of it were applicable should be dealt with under those circulars but not under the new rules of assignment issued in G.O.Ms.No.1406, Revenue, dated 25.07.1958.

14. It is the specific case of the petitioners herein that Pattas are issued in terms of Circular No.14, dated 08.11.1954 without any condition of assignment and hence, there is no prohibition for alienation for the lands held by the Petitioners. This Court is of the firm opinion that it is the assignment patta and conditions imposed therein, which will determine the nature of the assignment. The Government, being a custodian of the revenue records including records pertaining to the assignment etc is duty bound to produce the relevant records to establish the nature of the assignment.

15. In LETTER SENT FROM PLOT NO.338, PARVANT NAGAR, HYDERABAD V THE COLLECTOR AND DISTRICT MAGISTRATE, R.R. DISTRICT reported in (2008 (4) APLJ 6), it has been held that the land, which is assigned on payment of upset price cannot be treated as an assigned land.

We may reproduce para 50 of the judgment as below: -

"50. We are of the view that provisions of Act No.9 of 1977 will not be applicable to the cases wherein assignments were made on collection of market value or under Circular 14 except it were granted to the landless poor persons free of market value. Point No.2 is answered accordingly."

16. The erstwhile High Court of Andhra Pradesh in G.Satyanarayana Vs. Government of Andhra Pradesh, in its judgement dated 28.04.2014 reported in 2014 (4) ALD 358 while dealing with assignment pattas issued in the Telangana Area and Andhra Area held in para 136 as follows :

"From the lengthy discussion on the land tenures undertaken hereinbefore, it could be deduced that the genesis of ones title is traceable to his possession. **A registered occupant of the land, both under the ryotwari tenure and also under the estates, is recognised as a person holding rights over the**

land. Subject to payment of land revenue till the land is transferred to another person, a registered occupant was conferred with the right of selling the land to any third party without restrictions. Thus, the recognised possession can be said to be the source of a persons title.

The possession of a person is reflected in the records. As noticed earlier, the A-Register/Diglot in Madras Presidency and the Sethwar in Telangana Area was the mother of all the Registers. Though the primary intention of preparing this Register was to classify the lands according to the soil and potentiality and assess the revenue, recording the names of the persons in occupation was an equally important object in preparing this Register, for, without recording the names of the persons in occupation, the Government will not be able to collect revenue. All the revenue records such as Registers A to E and monthly and annual Accounts No.1 to 4 and No.10 Accounts in Andhra area and Wasool Baqui, Khasra Pahani, Pahani Patrik, Choufasla, Faisal patti etc., discussed hereinbefore, in Telangana Area are based on the basic register of Diglot/Sethwar. **Therefore, if a persons name is recorded as an occupant or pattadar in these records, a necessary presumption would arise in his favour or in favour of the persons who claim through him that he holds title to the land.**

In case of a dispute between two private parties, this presumption can be rebutted by the rival claimant by

producing better evidence, such as subsequent partitions, mutation in the revenue record and registered sale transactions etc. In many cases, after preparation of Diglot/Sethwar, changes in ownership of land may occur. In such cases, a person who sets up rival claim must be able to show that either he or his predecessor-in-title derived right through sale deeds supported by entries in revenue record.

The ratio that could be culled out from the slew of authorities of this Court is that assignments made prior to issue of G.O.Ms.No.1142, dt. 18-6-1954 in Andhra Area and that were made prior to issue of G.O.Ms.No.1406, dt. 25-7-1958 in Telangana Area, did not contain prohibition on alienation that the assignees are entitled to exercise all the rights including transfer of lands; that the initial burden lies on the Government and its functionaries to show that the assignments contain a condition against alienation of the land and that unless the revenue functionaries are first satisfied that the land is an assigned land within the meaning of sub-section (1) of Section 2 of Act 9 of 1977, no proceeding for cancellation of assignment can be initiated."

17. It is borne on record that the report dated 03.12.2020 of the Tahsildar, Keesara Mandal, indicates that Survey No.201, consisting of Ac.136.20 gts

situated at Yadgarpalli Village is of poramboke nature out of which an extent of Ac.83.33 gts is cultivated by poor Harijans since 9 years who had been paying Shivai Jamabandi (Rupee per Acre).

18. The Division Bench of High Court of A.P. at Hyderabad in a judgment reported in 2009 SCC online A.P. 972 in Joint Collector, Ranga Reddy District and others v P.Harinath Reddy and others vide its judgment dated 01.05.2009, in W.A.Nos.1894 of 2002 and 720 of 2003 at para 14 observed as under:

"We have considered the aforesaid submissions with reference to the records in the respective appeals as well as the decision of this Court referred to above. In both the appeals, the order of assignment is clearly under the Laoni Rules, which specifically permits alienation subject to prior permission of Tahasildar. On the face of it, therefore, when the order of assignment permits alienation, we cannot read the said order as prohibiting alienation as contended by the learned Advocate General. The assignment policy under the Loani Rules does not prohibit alienation and it is only under the revised assignment policy issued under G.O.Ms.No.1406, dated 25.07.1958 that such a condition of non-alienability was introduced in all

assignments. It is also to be noticed that the revised assignment policy aforesaid does not repeal the earlier assignment made under the Loani Rules."

19. Section 22-A of the Registration Act, 1908, states that, "Prohibition of registration of certain documents:

(1) The following classes of documents shall be prohibited from registration, namely: -

(a) documents relating to transfer of immovable property, the alienation or transfer of which is prohibited under any statute of the State or Central Government;

(b) documents relating to transfer of property by way of sale, agreement of sale, gift, exchange or lease in respect of immovable property owned by the State or Central Government, executed by persons other than those statutorily empowered to do so.

(c) documents relating to transfer of property by way of sale, agreement of sale, gift, exchange or lease exceeding (ten) 10 years in respect of immovable property owned by Religious and Charitable Endowments falling under the purview of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 or by Wakfs falling under the Wakfs Act 1995

executed by persons other than those statutorily empowered to do so.

(4) Agricultural Urban lands declared as surplus under the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1963 of the Urban Land (Ceiling and Regulation) Act, 1978. (a) any documents or class of documents pertaining to the properties, the State Government may, by notification prohibit the registration in which avowed or accrued interests of Central and State Governments, local bodies educational cultural, Religious, and Charitable Institutions, those attached by Civil, Criminal, Revenue Courts and Direct and Indirect Tax Laws and other which are likely to adversely affect these interests.

20 This Court opines that the invocation of Section 22-A(1)(b) by the Respondents in notifying the subject extent of land in the referred Survey Numbers is misplaced and lacks application of mind.

21. This Court opines that the 2nd respondent curiously without assigning any reasons refused to de-notify and delete the subject land from the list, under Section 22-A(i) ignoring the fact as borne on record that the then VRO, Yadgarpalli Village referring to the

ground status of land in question reported that since 50 years the assignees are in possession of the subject land, duly cultivating the same and even prepared a list of 35 assignees with all the relevant names and extents of land, owned and possessed by them.

22. This Court opines that the 2nd Respondent herein failed to give credence to the detailed report dated 03.12.2020 of the Tahsildar, Keesara Mandal, which referred to the clear recommendation of the Divisional Forest Officer, Hyderabad, vide File No.4/Res/1951, dt. 24.10.1959, addressed to the Tahsildar, Medchal Taluk, for deletion of Block No.I i.e., Yadgarpally (I) Sy.No.201 to an extent of Ac.136.20 gts., from Forest record and also the report of the VRO in File No.A7/3430/1958, Yadgarpally (V) which clearly brought on record the fact that since 50 years the assignees are in possession of the subject land duly cultivating the same and even prepared a list of (35) assignees, who are in possession on ground, with all their relevant details i.e. names of Assignees and extents of lands owned by them. The 2nd respondent

curiously ignored the report of the Tahsildar, Keesara Mandal, dated 03.12.2020, which clearly held that since the subject lands are under possession of the Petitioners/Assignees since as long as such it does not attract the provisions of the new revised assignment policy as well as POT Act, 1977 and also the request of the 7th respondent to consider the Petitioners request for de-notification of land bearing Sy.No.201 to an extent of Ac.56.16 gts., situated at Yadgarpally Village, Keesara Mandal, and ignored the said request of the 7th respondent totally and rejected the petitioners representation dated 11.01.2019 to de-notify the land in Sy.No.201/2 to 201/26 at Yadgarpalli (East) Village, Keesara Mandal, Medchal-Malkajgiri District, Telangana to an extent of Acres 56.16 gts., from prohibited properties list unilaterally, irrationally, without assigning any reason vide a cryptic statement simply stating that the committee has rejected the proposals without application of mind mechanically.

23. This Court opines that the action of the Respondents in including the property of an extent of

Ac.13.26 gts., of land forming part of total extent of Ac.56.16 gts., of land situated in Sy.No.201/2 to 201/26 at Yadgarpalli (East) Village, Keesara Mandal, Medchal-Malkajgiri District, Telangana, belonging to the Petitioners in prohibitory list U/s.22 (A)(i)(b) of the Registration Act, 1908 as being Government land without any gazette notification and rejecting the plea of the Petitioners to delete the lands from prohibitory list Vide Proceedings No.E1/248/2017, dated 12.02.2021 which was communicated to the Petitioners vide endorsement dated 20.02.2021 vide No.E2/1351/2019 of the Additional Collector, Medchal-Malkajgiri District is illegal and totally contrary to the reports on record (i) the detailed report dated 03.12.2020 of the Tahsildar, Keesara Mandal, (ii) recommendation of the Divisional Forest Officer, Hyderabad, vide File No.4/Res/1951, dated 24.10.1959, addressed to the Tahsildar, Medchal Taluk, for deletion of Block No.I i.e., Yadgarpally (I) Sy.No.201 to an extent of Ac.136.20 gts., from Forest record and (iii) the report of the VRO in File

No.A7/3430/1958, Yadgarpally (V), and the same are accordingly set aside.

24. Taking into consideration the above referred facts and circumstances and the law and principles laid down by this Court in judgments (1) G.Satyanarayana and others v Government of Andhra Pradesh and others reported in 2014 (3) ALT 473, and the view taken by the Court in the Judgment reported in (2) 2008 (4) APLJ 6 in letter sent from plot NO.338 PARVANT NAGAR Hyderabad v. The Collector and District Magistrate, RR District and the view taken by the Division Bench of High Court at Hyderabad in a Judgment reported in (3) 2009 SCC Online AP 972 in Joint Collector RR District and others v. P.Harinath Reddy (referred to and extracted in the discussion above), the writ petition is allowed and the 2nd Respondent is directed to reconsider the representation of the Petitioners dated 11.01.2019 to de-notify the land in Sy.No.201/2 to 201/26 to an extent of Ac.13.26 guntas of land forming part of the total extent of Ac.56.16 gts., situated at Yadgarpally Village, Keesara Mandal from Prohibitory

Properties List duly taking into consideration (i) the detailed report dated 03.12.2020 of the Tahsildar, Keesara Mandal, (ii) recommendation of the Divisional Forest Officer, Hyderabad, vide File No.4/Res/1951, dt. 24.10.1959, addressed to the Tahsildar, Medchal Taluk, for deletion of Block No.I i.e., Yadgarpally (I) Sy.No.201 to an extent of Ac.136.20 gts., from Forest record and (iii) the report of the VRO in File No.A7/3430/1958, Yadgarpally (V) and also the principles of law laid down by this Court in G.Satyanarayana and others v Government of Andhra Pradesh and others, reported in (1) 2014(3) ALT 473, (2) Letter sent from Plot No.338 Parvant Nagar Hyderabad v. The Collector and District Magistrate, RR District, reported in 2008 (4) APLJ 6, (3) Joint Collector RR District and others v. P.Harinath Reddy, reported in 2009 SCC Online AP 972 (referred to and discussed above) and pass appropriate orders within a period of 3 weeks from the date of receipt of the copy of the order, in accordance to law, and duly communicate the decision to the Petitioners without reference to the

minutes of the District Level Committee meeting held on 12.02.2021 vide No.E1/248/2017 and also the impugned Endorsement dated 20.02.2021 vide No.E2/1351/2019 of the Additional Collector, Medchal – Malkajgiri District. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

MRS JUSTICE SUREPALLI NANDA

Dated 18.07.2023

Note : L.R. copy to be marked

b/o

kvrn