

*** THE HON'BLE SRI JUSTICE N.V.SHRAVAN KUMAR**

+ Writ Petition No.6502 of 2022

% 10.04.2024

Between:

Gugulothu Ramaswamy

Petitioner

Vs.

The Principal Secretary (Revenue)
Secretariat, Hyderabad & others.

Respondents

! Counsel for Petitioner

: Mr.G.V.Raman Murthy

^ Counsel for Respondents

: Assistant Government Pleader
for Assignments.

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> HEAD NOTE:

? Cases referred

1 2021 (3) ALT 146 (DB) (TS)

THE HONOURABLE SRI JUSTICE N.V. SHRAVAN KUMAR**Writ Petition No.6502 of 2022****ORDER:**

This writ petition has been filed to declare the action of respondents in keeping the land in Sy.No.111/1/91/1, Ac.4-20 gts., of Narsampet Village and Mandal under prohibitory list under Section 22A of Registration Act as illegal and arbitrary and consequently direct the respondents to entertain registrations in respect of the above said land.

Brief facts of the case and submission of the petitioner:

2. The brief facts of the case are that originally one Akula Babaiah worked as Hawaldar/X-Service man/Freedom fighter, and also worked in II World War with Batch No.145297. After his retirement and by following G.O.Ms.No.74, he was granted land to an extent of Ac.9-13 gts., *vide* Laoni Patta in old Sy.No.111/88 and in new Sy.No.111/1/91/1 of Narsampet Village and Mandal, Warangal District *vide* file bearing No.A3/8292/61. It is submitted that a patta was given in Form-G under Rule 9(g) of Laoni Rules, 1950 and after obtaining the patta, the same was implemented in file bearing No.A3/8292/1961 for the year 1962-63.

3. It is submitted that Mandal Revenue Officer, Warangal District has lost the said patta. The Tahsildar in his letter dated 20.05.2019 addressed to the Revenue Divisional Officer, Narsampeta, Warangal clearly stated that Akula Babaiah was given Laoni Patta in Form No.G following Rule 9(g) of Laoni Rules, 1950. The petitioner submits that Laoni Rules are applicable to the subject mentioned land and that *vide* G.O.Ms.No.1045 Revenue (Assn.I) Department dated 15.12.2004, the land assigned to political sufferers/freedom fighters can be sold by them after a period of ten (10) years of the date of allotment and that patta granted under the Laoni Rules, 1950, there is no condition of non-alienability and the said patta does not come within mischief of Section 3 of Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977. It is further submitted that the said A.Babiah sold the Laoni Patta containing Ac.4-20 gts., to Rama Anasuya Devi *vide* registered sale deed No.3845/1975, and that the subject sale deed is legally valid as per Laoni Rules.

4. Thereafter, the name of Rama Anasuya Devi was mutated in the Jamabandi proceedings and her name was also

recorded in the Pahanies for the years 1976-77 to 1991-92. Thereafter, the said Rama Anasuya Devi has filed an application before the Tahsildar seeking conversion of agriculture land into non-agricultural/residential purpose in respect of land to an extent of Ac.4-20 gts., in Sy.No.111/1/91/1 of Narsampet Village (herein referred to as 'subject land'). Subsequently, the Revenue Divisional Officer converted agriculture land into non-agriculture land after obtaining necessary information. However, the District Collector, Warangal *vide* Letter No.E1/921/2019 sought for information from Tahsildar and RDO, Narsampet and finally concluded that A.Babaiah was assigned the above said land of Ac.9-13 gts., as such it cannot be sold. Accordingly, the entire extent of land in Ac.9-13 gts., in Sy.No.111/1/91/1 was kept under prohibitory property under Section 22A of the Registration Act and also directed Commissioner and IG, Registration Department not to entertain any registrations. Further in Dharani portal also the said survey number is shown as prohibitory property.

5. Learned counsel for the petitioner submits that the provisions of Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 is not applicable as in the Laoni Patta, the

condition of non-alienability is not mentioned. When there is no such condition, the registered sale deed Doc.No.3845/1975 dated 18.11.1975 is legally valid. Learned counsel further submits that the petitioner herein entered into Agreement of Sale with the said Rama Anasuya Devi to purchase the subject land and that the Authorities did not consider the same and illegally kept the land under Section 22A of the Registration Act inspite of representation made to them. Questioning the same the present writ petition is filed.

Contentions of the petitioner:

6. Subsequently, the vendor of the petitioner *vide* sale deed Doc.No.3845/1975 dated 18.11.1975 has purchased the property from Akula Babaiah to an extent of Ac.4-20 gts., as such said sale deed was made beyond 10 years and the patta was issued in the name of Rama Anasuya Devi. Even as per Sethwar record of rights, the name of Rama Anasuya Devi was found as owner of land to an extent of Ac.4-20 gts., in Sy.No.111/1/91/1. As per the material papers filed by the learned counsel for the petitioner, a report dated 19.10.2019 was submitted from Tahsildar, Narsampet to the RDO, Narsampet for deletion of Sy.No.111/1/91/1 to an extent of Ac.4-20 gts., from

prohibited list. A reference was made to the letter issued by the RDO, Narsampet dated 21.10.2019 requesting to furnish the Assignment Patta Certificate issued to Akula Babaiah under ex-servicemen quota, in relation to the application submitted by Smt.Rama Anasuya, who requested the District Collector to delete the entry of their land in Sy.No.111/1/91/1 to an extent of Ac.4-20 gts., from the list of prohibited properties notified under Section 22A of the Registration Act, as the land was purchased from an ex-servicemen through a registered Doc.No.3845 of 1975 and also obtained the PPB with Khatha No.200.

7. It is further submitted in the report that on verification of the office records and enquiring with the applicant therein, the original assignment patta certificate issued to Akula Babaiah was not available hence could not be furnished and that the only record available is pahani copy for the year 1962-63 in which the name of Akula Babaiah was recorded through Jamabandhi file No.A3/8292/61 for implementation of Laoni Patta and the same was recorded in "Faisalpatti" for the year 1962-63 in which the name of Akula Babaiah was recorded at two instances for Ac.8-23 gts., and Ac.0-30 gts.

8. It is also mentioned that originally Akula Babaiah worked as Hawaldar/X-Service man/Freedom fighter, and also worked in II World War with Batch No.145297. After his retirement by following G.O.Ms.No.74, he was granted Ac.9-13 gts., *vide* Laoni Patta in old Sy.No.111/88 and in new Sy.No.111/1/91/1 of Narsampet Village and Mandal, Warangal District. It is also submitted that in order to establish whether assignment made was under ex-servicemen quota or under landless poor quota, the form of order of assignment issued to the individual is not available, however, as per as per G.O.Ms.No.1406 dated 25.07.1958, maximum extent of land that can be assigned to a landless poor is Ac.2.5-00 gts., of wet land or Ac.5-00 gts., of dry land but the individual was assigned with Ac.9-13 gts., of land and the individual being a discharged officer, he could not be considered as a landless poor person. It is also noted that the land got alienated by Akula Babaiah to Rama Shanker and Rama Anasuya Devi *vide* registered sale deed Nos.3804/1975 and 3845/1975. The said Akula Babaiah filed a grievance before the then MRO, Narsampet on 20.09.1989 denying the said alienation and proceedings were taken up and a report was also submitted by MRO to the Collector on

20.03.1990. In the above said instances, the said Akula Babaiah submits that he was assigned the said land in recognition of his services in World War II.

9. A copy of the conversion proceedings bearing Proceedings No.B/207/2019 dated 31.05.2019 has also been filed along with the material papers issued by RDO, Narsampet. In the said proceedings it is submitted that as per the Tahsildar, Narsampet *vide* Lr.No.B/588/2019 dated 28.05.2019 *vide* Challan No.650 dated 31.05.2019 a sum of Rs.67,500/- was paid for conversion of the said land from agriculture to non-agriculture purpose and also stated that previously the said land in Sy.No.111/1/91/1 to an extent of Ac.4-20 gts., at Narsampet Village was allotted to ex-servicemen who worked as Hawaldar and then transferred to Rama Anasuya Devi wherein her name was mutated in the revenue records and she is pattadar till date. Accordingly, the conversion proceedings have been issued.

10. Thereafter, learned counsel for the petitioner has drawn attention to the letter of the Collector, Warangal addressed to the Chief Secretary and Chief Commissioner of Land Administration, Telangana, Hyderabad *vide*

Rc.No.E1/921/2019 dated 14.07.2020 and sought for clarification for issuance of NOC to sell away the land assigned under ex-servicemen quota. In the said letter, clarification was sought with regard to the application submitted by Rama Anasuya Devi stating that she has purchased land in the year 1975 to an extent of Ac.4-20 gts., situated at Narsampet Village in Sy.No.111/1/91/1 from Akula Babaiah, who was ex-servicemen and her name was recorded in the patta. It is further submitted in the said letter that as per the report of the Tahsildar, Narsampet, Sy.No.111 of Narsampet Village and Mandal was recorded as Poramboke land under Section 22A of the Registration Act and that since the land is in prohibitory list, the applicant is seeking for No Objection Certificate in order to sell the land to others. Further as per the instructions of the Government *vide* G.O.Ms.No.307, Revenue (Assignment - I) Department dated 06.06.2013 'NOCs shall not be issued to the third party applicants i.e., who had purchased the land from the original assignees or their legal heirs without obtaining "NOC" from the District Collector earlier. It is further submitted that no allotment certificate/patta certificate submitted or available in the file except copy of 1962-63 pahani. As per the said pahani,

Sy.No.111 with subdivision No.88 Ac.9-13 gts., was written in the name of Sri Akula Babaiah and written as “1963 as Patta” in the 12th column of pahani, except the same, there is no proof of document under which category it is assigned.

Submissions of the respondents:

11. A counter affidavit has been filed by respondent No.5/Tahsildar, Narsampet Mandal, Warangal District. While denying the allegations, it is submitted that one Akula Babaiah, who worked as Hawaldar with batch No.145297 during the World War II, was granted Laoni patta to an extent of Ac.9-13 gts in Survey No.111/88 (old), 111/91/1 (new), Narsampet Village Mandal and District and the said entries are continued up to the year 1975. It is further submitted that the petitioner has not produced either the original patta certificate or copy of the same for confirmation of assignment granted in favour of the said Akula Babaiah under Rule 9(g) of the Laoni Rules. With regard to the assignment file No.A3/8292/1961 which was relied upon by the petitioner, which was issued under Rule 9(g) of Laoni Rules, was not traceable in the office of respondent No.5 and therefore, denied the claim of the petitioner.

12. The respondent while referring to the revised assignment policy *vide* G.O.Ms.No.1406 dated 25.07.1958, which relates to the assignment of Government lands while exercising powers under Section 172 of Andhra Pradesh (Telangana Area Land Revenue 1317 fasli, in suppression of all previous orders of assignments, the land assigned to landless poor persons is heritable but not alienable. The petitioner, in contravention to the Assignment policy, had purchased the subject land, as such, the Government is entitled to resume the same to the Government custody to make use for public purpose. It is further submitted that with regard to the conversion of subject land from agriculture to non-agriculture purpose by obtaining the permission from the RDO, Narsampet *vide* proceeding No.B/207/2019 dated 31.05.2019 basing on the report of the Tahsildar, was done fraudulently by the vendor of the petitioner by mutating her name in the Revenue records, which is also in contravention of the revised assignment policy. Therefore, respondent No.4 has rightly prohibited the said property and listed under prohibitory properties list under Section 22A of the Registration Act, and sought clarification as to whether No Objection Certificate is granted or not and the same

is pending with the Office of Chief Commissioner of Land Administration for clarification. Subsequently, on 27.12.2023, learned Government Pleader for Assignment sought for time to file additional counter. Hence, final opportunity was given to file additional counter, but no additional counter affidavit has been filed thereafter.

Decisions relied on by the petitioner:

13. Learned counsel for the petitioner in support of his contentions relied upon a judgment of a Division Bench of this Court in ***BHEL Employees Model Mutually Aided Cooperative House Building Society Ltd., v. State of Telangana and others***¹ wherein the Division Bench while examining the provisions of Section 22A of the Registration Act with regard to the lands assigned to ex-servicemen held that only those lands which are assigned to landless poor, the prohibition contained in Section 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1971 was attracted, 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 and the District Collector being the Head of the Department was the Custodian of the revenue records and that the District

¹ 2021 (3) ALT 146 (DB) (TS)

Collector cannot be permitted to suppress the said record by stating that they are not available and if the record got misplaced, the District Collector has to give reasons that what steps he has taken to trace the said record or initiate appropriate legal action on those officials who are responsible for non-availability of record.

14. It is further held that if any such violation of condition of assignment of land by the assignees, who had been assigned land in 1972, why the State had allowed so many alienations by way of registered transactions and also effected mutation in revenue record of the names of the purchasers and that the original assignees are eligible to the benefit of G.O.Ms.No.1117 despite the existence of any condition in the deed of assignment prohibiting alienations. Accordingly the Division Bench allowed the writ petition by setting aside the proceedings dated 13.02.2017 issued by District Collector. The relevant paragraphs of the order of the Division Bench are extracted hereunder:

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 attracted2 .

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.

48. The District Collector, being the Head of the Revenue Department of the District, is the custodian of the revenue records including those relating assignment of lands. The District Collector cannot be permitted to suppress the said record by stating that they are not available. If the record had got misplaced, what steps have been taken by the District Collector to trace the said record or initiate appropriate disciplinary action against the officials responsible for non-availability of the records, is also not spoken to by the District Collector.

55. It is clear that the District Collector, without verification of any record, since such a record is not available, is trying to mislead the Court and give an impression that the predecessors-in-title of petitioner are not Ex-Servicemen (who can alienate after 10 years without Government permission), but ordinary landless poor assignees (who cannot alienate).

58. Moreover, if the assignments themselves have occurred in 1972 and the alienations took place from 1992 onwards, and the land changed hands more than once by the time proceedings for resumption of land were initiated in 2011 and thereafter, whether the original assignees were served any notices by the State authorities before passing such orders, is highly doubtful.

61. If there was really any violation of conditions of assignment of lands by the assignees, who had been

assigned land in 1972, why the State had allowed so many alienations by way of registered transactions to take place and also effected mutation in revenue record of the names of the purchasers, is not explained. It is also not explained what the officials of the State were doing over the last 40 years if such violation of conditions of assignment allegedly took place.

68. So, it is not possible for the respondents 1 to 6 to speculate/imagine under which G.O. the ex-servicemen were actually assigned the lands. On what basis the learned Government Pleader for Revenue is presuming that the assignments to the ex-servicemen were made under G.O.Ms.No.1406, Revenue dt.25.07.1958, is not stated by him. In our opinion, such a contention cannot be raised without any factual basis.

69. Even otherwise, if there is an assignment of land to a person, who is an ex-servicemen, and he is a landless poor person entitled for assignment, even if by some error, the said assignment was made quoting G.O.Ms.No.1406 Revenue dt.25.07.1958 and not mentioning G.O.Ms.No.743 dt.30.04.1963 or G.O.Ms.No.1117 dt.11.11.1993, we are of the opinion that the assignees, who are admittedly ex-servicemen are still entitled to the benefit of G.O.Ms.No.1117 dt.11.11.1993 despite the existence of any condition in the Deed of Assignment prohibiting alienation.

78. Consequently, the respondent nos.1 to 6 are not entitled to put these lands in the Prohibitory Register invoking sub-Section (1)(a) of Section 22A of the Act.”

15. Heard Mr.G.V.Ramana Murthy, learned counsel for the petitioner and learned Assistant Government Pleader for Assignments. Perused the material placed on record.

ANALYSIS:

16. It is pertinent to note that Revenue Divisional Officer, Narsampet, Warangal *vide* Proc.No.B/207/2019 dated 31.05.2019 has issued conversion proceedings for conversion of land in favour of Rama Anasuya Devi in Sy.No.111/1/91/1 to an extent of Ac.4-20 gts., situated at Narsampet Village, Warangal District. However, again on 21.10.2019 he has submitted a report to the District Collector in which there is no mention about the conversion proceedings issued by him on 31.05.2019. The Revenue Divisional Officer, Narsampet while granting conversion proceedings has not verified with regard to the alienation of the land. As per the law laid down by the Division Bench of this Court in the case of **BHEL Employees (cited supra)** the lands allotted to the ex-servicemen can be sold after 10 years freely without even seeking permission from the Government.

17. In the case on hand Akula Babaiah was granted Laoni Patta in File No.A3/8292/1961 to an extent of Ac.9-13 gts., and

out of the said extent Ac.4-20 gts., was sold to one Rama Anasuya Devi whose name has been implemented in the revenue records. The petitioner herein has entered into agreement of sale with the said Rama Anasuya Devi on 17.01.2019 to purchase the land in Sy.No.11/1/91 and 111/1/92 situated at Narsampet Municipality, Madannapeta Road. It is pertinent to note that the name of the original assignees was recorded in the Sethwar record of rights and thereafter the names of vendors of the petitioner was entered into the Sethwar record of rights. The District Collector, Warangal has also addressed a letter to the Chief Commissioner of Land Administration seeking for clarification for issuance of No Objection Certificate which was applied by the third parties after 44 years, which is still pending with the Chief Commissioner of Land Administration.

18. The petitioner herein has also made a representation to Sub Registrar Office, Narsampet dated 28.12.2021 for deletion of subject property from prohibitory property listed under Section 22A of the Registration Act which is still pending with the authorities.

19. The Hon'ble Division Bench of this Court in **W.P.No.28300 of 2007 and batch** at paragraph 30, while referring to the judgment of the Full Bench of this Court in the case of **Vinjamuri Rajagopala Chary v. Revenue Department** wherein at paragraph 156, summarized the conclusions and issued directions as follows:

(i) The authorities mentioned in the guidelines, which are obliged to prepare lists of properties covered by clauses (a) to (d), to be sent to the registering authorities under the provisions of Registration Act, shall clearly indicate the relevant clause under which each property is classified.

(ii) Insofar as clause (a) is concerned, the concerned District Collectors shall also indicate the statute under which a transaction and its registration is prohibited. Further in respect of the properties covered under clause (b), they shall clearly indicate which of the Governments own the property.

(iii) Insofar as paragraphs (3) and (4) in the Guidelines, covering properties under clause (c) and (d) are concerned, the authorities contemplated therein shall also forward to the registering authorities, along with lists, the extracts of registers/gazette if the property is covered by either endowment or wakf, and declarations/orders made

under the provisions of Ceiling Acts if the property is covered under clause (d).

(iv) The authorities forwarding the lists of properties/lands to the registering authority shall also upload the same to the website of both the Governments, namely igrs.ap.gov.in of the State of Andhra Pradesh and registration.telangana.gov.in of the State of Telangana. If there is any change in the website, the State Governments shall indicate the same to all concerned, may be by issuing a press note or an advertisement in prominent daily news papers.

(v) No notification, contemplated by sub-section (2) of Section 22A, is necessary with respect to the properties falling under clauses (a) to (d) of sub-section (1) of Section 22-A.

(vi) The properties covered under clause (e) of Section 22-A shall be notified in the official gazette of the State Governments and shall be forwarded, along with the list of properties, and a copy of the relevant notification/gazette, to the concerned registering authorities under the provisions of Registration Act and shall also place the said notification/gazette on the aforementioned websites of both the State Governments. The Registering authorities shall make available a copy of the Notification/Gazette on an application made by an aggrieved party.

(vii) The registering authorities would be justified in refusing registration of documents in respect of the properties covered by clauses (a) to (d) of sub-section (1) of Section 22-A provided the authorities contemplated under the guidelines, as aforementioned, have communicated the lists of properties prohibited under these clauses.

(viii) The concerned authorities, which are obliged to furnish the lists of properties covered by clauses (a) to (d) of sub-section (1) of Section 22-A, and the concerned Registering Officers shall follow the guidelines scrupulously.

(ix) It is open to the parties to a document, if the relevant property/land finds place in the list of properties covered by clauses (a) to (d) of sub-section (1) of Section 22-A, to apply for its deletion from the list or modification thereof, to the concerned authorities as provided for in the guidelines. The concerned authorities are obliged to consider the request in proper perspective and pass appropriate order within six weeks from the date of receipt of the application and make its copy available to the concerned party.

(x) The redressal mechanism under Section 22-A(4) shall be before the Committees to be constituted by respective State Governments as directed in paragraph-35.1 above. The State Governments shall

constitute such committees within eight weeks from the date of pronouncement of this judgment.

(xi) Apart from the redressal mechanism, it is also open to an aggrieved person to approach appropriate forum including Civil Court for either seeking appropriate declaration or deletion of his property/land from the list of prohibited properties or for any other appropriate relief.

(xii) The directions issued by learned single Judges in six judgments (W.P.No.2775 of 2009, dated 15.03.2011; W.P.Nos.20050 of 2011 and batch, dated 08.09.2011; W.P.No.26566 of 2011, dated 18.01.2013; W.P.No.30526 of 2012 and batch, dated 31.12.2012; W.P.No.31409 of 2014, dated 29.01.2015 and W.P.No.24587 of 2014 and batch 01.06.2015) or any other judgments dealing with the provisions of Section 22-A, if are inconsistent with the observations made or directions issued in this judgment, it is made clear that the observations made and directions issued in this judgment shall prevail and would be binding on the parties including the registering authorities under the Registration Act or Government officials or the officials under the Endowments Act, Wakf Act and Ceiling Acts.

(xiii) If the party concerned seeks extracts of the list/register/gazette of properties covered by clauses (a) to (e) of Section 22-A (1), received by the

registering officer on the basis of which he refused registration, it shall be furnished within 10 days from the date of an application made by the aggrieved party.

(xiv) Registering officer shall not act and refuse registration of a document in respect of any property furnished to him directly by any authority/officer other than the officers/authorities mentioned in the Guidelines.

(xv) Mere registration of a document shall not confer title on the vendee/alienee, if the property is otherwise covered by clauses (a) to (e), but did not find place in the lists furnished by the concerned authorities to the registering officers. In such cases, the only remedy available to the authorities under clauses (a) to (e) of sub-section (1) of Section 22-A is to approach appropriate forums for appropriate relief.

CONCLUSION:

20. As per the guidelines extracted above, the petitioner, in terms of Clause IX of the guidelines has already made a representation dated 28.11.2021 to the Sub-Regisrar, Narsampet and also has marked a copy to other respondents for deletion of his property from the prohibitory list under Section 22A of the Registration Act, which is still pending for consideration. The District Collector, Warangal has also addressed a letter to the

Chief Secretary and Chief Commissioner of Land Administration, Hyderabad on 14.07.2020 requesting for clarification regarding no objection certificate be issued to the third parties or not, to sell away the lands assigned under ex-servicemen quota for taking further action in the matter. In view all the above judicial pronouncements, the respondents are directed to dispose of the representation dated 28.12.2021 of the petitioner and also give clarification on the issuance of No Objection Certificate and accordingly, pass orders within a period of eight (8) weeks from the date of receipt of a copy of this order. The petitioner is also at liberty to approach the Civil Court for availing appropriate remedy as available under law.

21. Accordingly, this writ petition is disposed of. There shall be no order as to costs.

As a sequel, miscellaneous applications, if any pending, shall stand closed.

JUSTICE N.V. SHRAVAN KUMAR

Date: 10.04.2024
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