

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

W.P.No.25009 OF 2023

Between:

Konda Ravi Goud

... **Petitioner**

And

National Commission For Schedule Castes,
Government of India & others

... **Respondents**

JUDGMENT PRONOUNCED ON: 03.06.2024

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgment?
2. Whether the copies of judgment may be : Yes
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : Yes
see the fair copy of the Judgment?

SUREPALLI NANDA, J

THE HON'BLE MRS JUSTICE SUREPALLI NANDA**W.P.No.25009 OF 2023****% 03.06.2024****Between:**

Konda Ravi Goud

... Petitioner**And**\$ National Commission For Schedule Castes,
Government of India & others**... Respondents**

< Gist:

> Head Note:

! Counsel for the Petitioner : Sri N.Chandra Shekar**^ Counsel for Respondents** : Sri A.S.Vasuden, for R1
G.P. for Revenue for R2
G.P. for Home for R3
Sri P.Padma Rao, for R4.

? Cases Referred:

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THE HON'BLE MRS. JUSTICE SUREPALLI NANDA**W.P. No.25009 OF 2023****ORDER:**

Heard Sri N.Chandra Shekar, the learned counsel appearing on behalf of the Petitioner, learned Government Pleader for Revenue appearing on behalf of respondent No.2, learned Government Pleader for Home appearing on behalf of respondent No.3 and Sri P.Padma Rao, learned Counsel appearing on behalf of respondent No.4.

PRAYER:

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

"...declaring the action of Respondent No 1 in proceeding with the inquiry in File. No.014/270/2022-ESDW, filed by Smt. Sheri Nirmala/4th Respondent, in spite of being made aware that the matter under consideration before Respondent No.1 is subjudice, and pending before the learned II Additional Junior Civil Judge Cyberabad at Rajendra Nagar, vide OS No. 413 of 2022 and that the learned II Additional Junior Civil Judge by its order dated 28/11/2022, allowed IA No.401 of 2022 in OS No 413 of 2022, granting ad-interim injunction in favour of the petitioner and against the Respondent No.4; as

illegal, arbitrary, without jurisdiction, and is against the Rule 4.2 (d) and (e) of the rules framed by Respondent No.1 itself in its Handbook and also violative of Article 14, 21 and 300-A of The Constitution of India, and consequently direct Respondent No.1 to stay all further proceedings in File. No.014/270/202- ESDW pending before it...”

3. PERUSED THE RECORD.

A) The counter affidavit filed on behalf of Respondent No.1, in particular, paragraph Nos. 10, 12, 13 and 14, read as under:

“**10.** In reply to Para No. 12 the contention raised by the petitioner in this Para is incorrect and the same is denied. The answering Respondent No. 1 after receipt of the representation from Respondent No. 4 acting within its constitutional mandate and in accordance with law, called for action taken report from the concerned Government authorities as stated in Para No. 1 supra. However, no reply was provided to the answering Respondent No. 1, as such the recommendation dated 23.06.2023 was made in accordance with the procedure followed by the commission. Further the allegation that no notice was issued to the Petitioner and without hearing the petitioner the recommendation dated 23.06.2023 is factually incorrect and misleading. As stated in the above Para No.12 the answering Respondent has called

for report from the concerned authority and as no reply was received the recommendation dated 23.06.2023 was passed. There is no procedure contemplated to issue notice to the petitioner prior to taking any action on the complaint. Hence the allegations in this para are denied.

12. In reply to Para Nos.14, 15 and 16 the allegations raised by the petitioner in these paras are incorrect and hence denied. In so far as the allegations that the Petitioner was hopeful that this answering Respondent would abide by the guidelines framed under Rule 4.2(d) and 4.2(e) of the rules in its handbook and would stay further enquiry in the matter and to the dismay of the Petitioner, the Respondent did not show any inclination in staying the enquiry in spite of being made aware that the matter under consideration before him is sub-judice. The said allegation of the Petitioner is incorrect and the same is denied. As stated in Para No. 13 this answering Respondent was not aware of any pending proceedings in the matter, though the answering Respondent has called for a status report from the revenue and police departments, no information was furnished. Further as stated above immediately on coming to know about the pending matters through the representation of the Petitioner dated 14.08.2023 this Respondent has not taken up the matter.

13. I submit that the recommendations given by the answering Respondent No. 1 are mere suggestions and are not binding in nature. The action taken on the basis of the

said recommendations may be subject to further corroboration. No further hearing in the matter has been conducted by the answering Respondent No.1 after it was found that the matter is sub-judice.

14. In reply to Para No. 17 the allegations in this Para are denied. The petitioner is alleging false and baseless allegations to mislead this Hon'ble Court. As stated in the above paragraph after knowing that the matter is sub-judice, the answering respondent no. 1 did not conduct any further hearing in the matter. The action taken by the answering respondent no.1 in the matter is the usual course of procedure undertaken to discharge duties and functions as provided under Article 338 of the Constitution of India for the safeguards provided to the members of Scheduled Castes community."

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

The petitioner is the absolute owner of land admeasuring Ac.0.34 guntas in Sy.No.299/AA/1 and 299/AA/2 at Vattinagulapalli village, Rajendranagar Mandal, Ranga Reddy District, having purchased it by way of two Registered Sale Deeds bearing document No.2446/2014 dated 16.05.2014 and document

No.12/2021 dated 27.02.2021. Since 2014, the petitioner had been in possession of subject property and petitioner's name was incorporated in revenue records/pahani and petitioner was also issued patta and passbook (old). Pursuant to the amendments made in the Telangana Rights in Land and Pattedar Passbook Act, 2020, the petitioner's name was also incorporated in Dharani Portal and the petitioner was issued E-Passbook (New).

It is further the case of the petitioner that on 23.07.2022, the 4th respondent along with some third parties descended on the land owned by the petitioner and informed the petitioner that they intend to conduct survey of land in Sy.No.299/E which is suit property in O.S.NO.1162 of 2016 pending on the file of 14th Additional District Judge, Ranga Reddy. The said suit was filed by the 4th respondent seeking partition of land admeasuring Ac.0.32 guntas in Survey No.299/E. The petitioner opposed the survey as the land sought to be surveyed is not land in Sy.No.299/E but it is land in survey No.299/AA/1 and 299/AA/2 which belongs to the petitioner. The petitioner also informed the Advocate Commissioner that the boundaries of the suit property in O.S.No.1162 of 2016

and the boundaries of the petitioner's subject property are different.

It is further the case of the petitioner that, when 4th respondent under the guise of preliminary decree in O.S.No.1162 of 2016 tried to encroach petitioner's property in Sy.No.299/AA/1 and 299/AA/2, petitioner filed an injunction suit against the 4th respondent and three others on 17.08.2023 before the II Additional Junior Civil Judge, Rajendranagar, Ranga Reddy District, vide O.S.No.413 of 2022, in respect of land admeasuring Ac.0-31 guntas, in survey No.299/AA/1 and survey No.299/AA/2 at Vattinagulapalli village, Gandipet Mandal, Ranga Reddy District. The petitioner also filed I.A.No.401 of 2022 in O.S.No.413 of 2022 seeking ad-interim injunction and the 4th respondent was arrayed as respondent No.1 in I.A.No.401 of 2022 and I.A.No.401 of 2022 was allowed in favour of the petitioner on 28.11.2022 granting ad-interim injunction in favour of the petitioner.

It is further the case of the petitioner that on 16.07.2023 petitioner received notice under Section 41-A Criminal Procedure Code dated 12.07.2023 from ACP Madhapur, Cyberabad and the petitioner came to know through the said notice that 4th respondent

filed a complaint against the petitioner on 28.06.2023 and on the basis of the said complaint, the SHO Police Station Gachibowli, Cyberabad registered crime vide FIR No.799 of 2023 dated 28.06.2023 and the petitioner submitted detailed reply to the said notice and also submitted the necessary documents. From the said complaint dated 28.06.2023, the petitioner came to know about the proceedings pending before the 1st respondent, and upon enquiry, petitioner came to know that the 4th respondent herein filed a complaint before 1st respondent on 18.08.2022 which was numbered as File No.014/270/2022-ESDW(62029) on 23.08.2022 by the 1st respondent.

It is further the case of the petitioner that the contention of the 4th respondent in her complaint dated 18.08.2022 filed before the 1st respondent that the land admeasuring Ac.0-32 guntas in Sy.No.299/E of Vattinagulapalli village, is nominally reflected in the name of one Saraswathi Bai in revenue records and that her ancestor one B.Laxmaiah, purchased it long back and he was in possession of it since 1970 and his name reflected in possessor column and purchaser in the pahanies of the year 1971-1972. That the 4th respondent obtained judgment and decree dated 28.11.2017

in O.S.No.1162 of 2016 on the file of 14th Additional District Judge, Ranga Reddy District, and as per the said judgment, Advocate Commissioner allotted 1/4th share to her and Saraswathi Bai, who had no right over the subject property in collusion with the petitioner herein created forged and fabricated documents in respect of land admeasuring Ac.0-34 guntas in survey No.299/E and the petitioner along with his henchmen had illegally trespassed and tried to occupy the subject property illegally and these persons abused them in the name of caste, beat them with sticks and tried to grab the property and kill them. The 4th respondent vide her complaint dated 18.08.2022 requested the 1st respondent to take deterrent action against the culprits and to issue direction to SHO Gachibowli, Tahsildar, Gandipet, and District Collector, Ranga Reddy District to take action against Anti social elements.

It is further the case of the petitioner that on the basis of the complaint, the 1st respondent without issuing any notice and without intimation to the petitioner and without hearing the petitioner in its Minutes of Hearing vide file No.D14/270/2022-ESDW, dated 23.06.2023 made the following recommendation.

"The matter was listed on 23.06.2023. The Commission after hearing both the parties, recommended that the police may lodge FIR under SC/ST (Prevention of Atrocities) Act, 1989 within 48 hours. The Revenue Department informed that the possession of property belongs to the petitioner. In view of this, the Commission further recommended that the Concerned District Magistrate and Police officials may take action in accordance with law to provide the relief sought by the petitioner in respect of the possession of the property."

It is further the case of the petitioner that the 1st respondent did not show any inclination in staying the enquiry inspite of being made aware that the matter under consideration before the 1st respondent is sub judice and is pending before the II Additional Junior Civil Judge, Cyberabad at Rajendranagar vide O.S.No.413 of 2022 and the petitioner obtained ad-interim injunction in favour of the petitioner and against the 4th respondent. Aggrieved by the action of the 1st respondent, in proceeding with enquiry in File.No.014/270/2022-ESDW filed by the 4th respondent inspite of being made aware that the matter under consideration before respondent No.1 is subjudice and pending before II Additional Junior Civil Judge, Cyberabad at Rajendranagar vide O.S.No.413 of 2022 and the II Additional Junior Civil Judge,

Cyberabad at Rajendranagar, Hyderabad vide its Order dated 28.11.2022 allowed I.A.No.401 of 2022 in O.S.No.413 of 2022 and granted ad-interim injunction in favour of the petitioner and against respondent No.4, clearly in violation of Rule 4.2 (d and e) of the Rules framed by the respondent No.1 itself in its Handbook. Hence, this writ petition.

This court on 11.09.2023 passed interim orders in favour of the petitioner as under:

"Notice before admission.

Learned counsel for the petitioner is permitted to take out personal notice on respondent No.4 and file proof of service in the Registry.

List on 18.09.2023, in the 'motion list'.

In the meantime, status quo to be maintained with regard to the possession of land admeasuring Ac.0.34 guntas in Sy.No.299/AA/1 and 299/AA/2, at Vattinagulapally Village, Rajendranagar Mandal, Ranga Reddy District."

5. Counter affidavit has been filed by the 1st respondent, and a specific plea is taken by the 1st respondent that the respondent No.1 was not aware of any pending proceedings in the matter and though the respondent No.1 had called for

a status report from the Revenue and Police Departments, no information was furnished and that the 1st respondent on coming to know about the pending matters through the representation of the petitioner dated 14.08.2023, the 1st respondent has not taken up the matter and no further hearing in the matter had been conducted by the answering respondent No.1 after it was found that the matter is subjudice.

It is further stated by the 1st respondent that the 1st respondent only discharged its duties and functions under Article 338 of the Constitution of India for the safeguards provided to the members of Schedule Caste Community and that the 1st respondent did not conduct further hearing in the matter.

DISCUSSION AND CONCLUSION:

6. Rule 7.4.1(e) and (f) of Rules of Procedure of the National Commission for Schedule Castes, Government of India, New Delhi, is extracted hereunder:

“7.4.1(e) -No action will be taken on matters, which are subjudice. Hence subjudice matter need not be referred to the Commission as complaint(s).

(f) - Cases pending in courts or cases in which a court has already given its final verdict may not be taken up afresh with the Commission.

The Hand Book, 2016 of the National Commission for Schedule Caste, New Delhi, dealing with procedure for enquiry by NCSC, in particular, clause 4.2 (d) and 4.2 (e) is extracted hereunder:

“4.2 (d) – No action will be taken on matters, which are subjudice. Hence, subjudice matter need not be referred to the Commission as complaint(s).

(e) – Cases pending in courts or cases in which a court has already given its final verdict may not be taken up afresh with the Commission.”

7. A bare perusal of the above referred rule position clearly indicates that the 1st respondent cannot proceed in matters which are subjudice and the 1st respondent cannot take any action in such matters, and such matters which are subjudice need not be referred to the 1st respondent as complaints.

8. A bare perusal of the above referred rules which is the procedure for enquiry by NCSC also indicates that the cases pending in Courts or cases in which a Court has already given its final verdict may not be taken up afresh with the commission.

9. **A bare perusal of the counter affidavit filed by the 1st respondent clearly indicates that the 1st respondent immediately on coming to know about the pending matters through the representation of the petitioner dated 14.08.2023 had not taken up the matter and the same is kept pending.**

10. Taking into consideration the Rule position i.e., 7.4.1 (e) and (f) of Rules of Procedure of National Commission for Schedule Castes, Government of India, New Delhi and Rule 4.2 (d) and (e) of the Rules framed by the respondent No.1 itself in its Handbook and duly considering the averments made in the counter affidavit filed by the 1st respondent (referred to and extracted above), this Court opines that the petitioner is entitled for the relief as prayed for in the present writ petition and accordingly, the writ petition is allowed as prayed for. The interim orders dated 11.09.2023

directing Status quo to be maintained with regard to the possession of land admeasuring Ac.0-34 guntas, in Sy.No.299/AA/1 and 299/AA/2 at Vattinagulapalli village, Rajendranagar Mandal, Ranga Reddy District, shall continue till O.S.No.413 of 2022 filed by the petitioner on the file of II Additional Junior Civil Judge, Rajendranagar, Ranga Reddy District, is disposed of finally. 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: 03.06.2024

Note : L.R. Copy to be marked.
B/o. *Yvkr/ktm*

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

W.P.No.25009 OF 2023
(L.R.copy to be marked)

Date: 03.06.2024.

Yvkr/ktm