
(2004) 06 AP CK 0058

In the Andhra Pradesh High Court

Case No : Writ Petition No. 1637 of 1994

Airwa Bharathamma

APPELLANT

Vs

District Collector and Another

RESPONDENT

Date of Decision : 21-06-2004

Acts Referred:

Citation : (2004) 4 ALD 482

Hon'ble Judges : V.V.S. Rao, J

Bench : Single Bench

Advocate : I. Aga Reddy, for the Appellant; Government Pleader for Revenue, for the Respondent

Final Decision : Dismissed

Judgement

V.V.S. Rao, J.—In the year 1972 the petitioner's husband Airva Kishan Rao, who is an Ex-servicemen applied to revenue authorities for assignment of Acs. 10.00 of land as per various Government Orders permitting such assignment in favour of Ex-servicemen. Said Kishan Rao was given eksai lease in respect of the land in S.No. 161 of Garrepalli Village of Karimnagar District admeasuring Acs.5.00. The land was classified in revenue records as irrigation dry. Be that as it is, there was a ban at the relevant time for assignment of any land which is likely to come under the Command Area of Sriramsagar Project (Pochampadu Project), which was then being constructed. However, Kishan Rao and after his death his wife, Bharathamma, petitioner herein, were given eksai lease continuously. By order dated 17.9.1991 vide G.O. Ms. No. 818, the Government lifted the ban for assigning the land under Pochampadu Project. By Memo No. F/2434/92, dated 4.11.1993 and the consequential Memo of even date, petitioner was informed that as per the relevant Government Orders an Ex-serviceman is entitled to assignment of Acs.4.00 of dry land or Acs.2.20 of wet land and that the petitioner is to be evicted in respect of the land over and above Acs.2.20. Assailing the same, present writ petition is filed.

2. The respondents filed a counter-affidavit opposing the writ petition. Reliance is

placed on G.O. Ms. No. 818 dated 17.9.1991, which is to the effect that assignment of land can only be to the extent of Acs.050 of wet land and Acs. 1.50 of dry land. The matter was heard on 14.6.2004. At the request of the learned Government Pleader to produce the relevant Government Orders before this Court, the matter was adjourned. Today, learned Government Pleader has produced various Government Orders and Memos for consideration of this Court.

3. It is not denied before me that the land in S.No. 161 is irrigation dry land, but it was coming with the Command Area of Sriram Sagar Project. As per subparagraph (7)(i) of paragraph 22 of Board Standing Order 15, the lands included in the ayacut of the project shall be treated as wet lands only, for purposes of assignment, though wet cultivation has not yet been done. In that view of the matter, the land which was given to the petitioner's husband and later to petitioner on eksai lease has to be treated as wet land only, for the purpose of assignment.

4. The next question would be whether the petitioner is entitled for assignment or the land in excess of the limit prescribed by the Government ?

5. The Government of Andhra Pradesh initially issued G.O. Ms. No. 743 Revenue Department dated 30.4.1963 framing special Rules regarding assignment of lands to Jawans after demobilization (Ex-servicemen) and to families of such Jawans. As per Rule 2 of the said G.O., each Jawan will be eligible for grant of an extent or Acs.2.50 of wet land or Acs.5.00 of dry land. The Note appended thereto clarifies that for the purposes of assignment under the Rules Acs.1.00 of wet land is equal to Acs.2.00 of dry land. Rule 9 confers power on the Tahsildar or the Deputy Tahsildar with independent charge to be competent authority to assign the land not exceeding Acs.2.50 of wet land or Acs.5.00 of dry land. Therefore, an Ex-serviceman would be eligible to assignment of land to the extent of limit prescribed in G.O. Ms. No. 743, dated 30.4.1963.

6. When Sriramsagar Project under river Godavari was sanctioned, the Government issued orders imposing ban on assignment of Government lands in certain villages within the Pochampadu Command Area. The ban was continued by G.O. Ms. No. 4557, dated 1.10.1980. By G.O. Ms. No. 818 dated 17.9.1991, the Government decided to lift the ban on assignment of Government lands falling under Pochampadu Project (Sriramsagar Project), Galeru-Nagari Sujala Sravanthi Project, and Haldi Vagu Project. Accordingly, while lifting the ban on assignment of Government lands in these Projects, the Government imposed following conditions besides normal conditions of assignment of Government land.

(i) Not more than half (1/2) acre of wet land or one-and-a-half (1 1/2) acre of dry land may be assigned;

(ii) Preference should be given to local persons in the matter of assignment of the lands;

(iii) Where large chunks of land is available Co-operative Farming Societies

should be formed to prevent sales by the assignees to ineligible persons;

(iv) Lands under the above projects may be assigned to weaker sections for house sites also;

(v) The assignees shall not raise any permanent structures on these lands and if the permanent structures are so raised despite the ban shall not be eligible for any compensation if such lands are taken over for project requirements later.

7. Subsequently, the Government issued Memo No. 100389/Asn.4(1)/91-1, dated 23.1.1992 to the effect that the orders issued in G.O. Ms. No. 818, dated 17.9.1991 will have only prospective effect and they do not apply to assignments made prior to issue of orders in G.O. Ms. No. 818. The conditions imposed in G.O. Ms. No. 818 especially the condition restricting the assignment of not more than Acs.0.50 of wet land and Acs. 1.50 of dry land was seriously effected Ex-servicemen, who were given eksai leases during the ban period. Therefore, considering the representations made by a number of Ex-servicemen and political sufferers, the Government issued further clarification in Memo No. 94427/Assignments II(3)/90-3, dated 10.3.1992. In this Memo, the Government instructed that the conditions stipulated in G.O. Ms. No. 818 will have no application to Ex-servicemen/political sufferers if they are holding land on eksai lease. This Memo dated 10.3.1992 virtually restored the position insofar as the assignment to Ex-servicemen is concerned as it existed prior to issue of G.O. Ms. No. 818, dated 17.9.1991. Even after that, the instructions issued by the Government in G.O. Ms. No. 743, dated 30.4.1963 continue to operate and therefore we have to consider as to whether the petitioner can retain the land in excess of the limit prescribed in G.O. Ms. No. 743, dated 30.4.1963.

8. The procedure for assignment of land to Ex-servicemen was laid down in G.O. Ms. No. 743, dated 30.4.1963 which inter alia provides that an Ex-serviceman shall be eligible for grant of an extent of Acs.2.50 wet land or Acs.5.00 of dry land. Rule 2 further provides that total extent of land already owned plus land assigned to Ex-serviceman shall not exceed Acs.2.50 of wet land or Acs.5.00 of dry land. This would clinchingly show that petitioner is in possession of excess of the limit for which her husband was eligible for assignment. Therefore, the respondents were justified in issuing notice to the petitioner to handover the land in excess of eligibility extent. I do not see any illegality in the procedure. The petitioner may approach the respondents with proper reply. In this writ petition, no relief can be granted.

9. With the above observations, the writ petition is dismissed. No costs.