
(2022) 12 TEL CK 0048

In the Telangana High Court

Case No : Writ Petition Nos. 7736, 36131, 42474 Of 2022

Bachigalla Narsimha

APPELLANT

Vs

State Of Telangana

RESPONDENT

Date of Decision : 12-12-2022

Acts Referred:

Citation : (2022) 12 TEL CK 0048

Hon'ble Judges : K.Lakshman, J

Bench : Single Bench

Advocate : K Buchi Babu

Final Decision : Dismissed

Judgement

1. Heard Sri K.Buchi Babu, learned counsel for the petitioners, learned Assistant Government Pleader for Revenue and Sri Koripally Madhusudhan Reddy, learned standing counsel for 5th respondent in W.P.No.36131 of 2022/Telangana Rajiv Swagruha Corporation Limited, and Mr.V.Narasimha Goud, learned Standing Counsel for HMDA. Perused the record.

2. The lis involved in all the aforesaid three writ petitions and parties are common and therefore, the same were heard together and disposed of by way of this common order.

3-a. Sri Bachigalla Narasimha, sole petitioner filed W.P.No.7736 of 2022 to declare the action of respondent Nos.5 and 6 therein i.e. HMDA for proposing developmental activities in Sy.No.383/1 in an extent of Ac.1-00guntas of Mango garden out of Ac.3-30guntas situated in Torrur Village, Abdullapurmet Mandal, Ranga Reddy District, without initiating any land acquisition proceedings, as illegal.

3-b. He had filed another writ petition vide W.P.No.36131 of 2022 to declare G.O.Rt.No.23/Housing (VC) Department, dated 09.02.2022 of 1st respondent, as illegal and without compliance of recommendations of the Revenue Divisional

Officer, Ibrahimpatnam, dated 30.11.2021 for allotment of 500sq.yards for each beneficiary and set aside the same.

3-c. He himself and his wife Smt. B. Pochamma, have filed a writ petition vide W.P.No.42474 of 2022 to declare the action of the respondents in demolishing the sheds in Sy.No.383/1 admeasuring Ac.1-00guntas out of Ac.3.20guntas on 21.11.2022 with JCBs, as illegal.

FACTS OF THE CASE:-

4. Sy.No.383 of Thorur Village, Abdullapurmet Mandal, sub-divided into two Survey Numbers i.e. 383/1 and 383/2. The land admeasuring Ac.259.10 guntas in Sy.No.383/1 is classified as Sarkari Gairan, whereas the land admeasuring Ac.7.08guntas in Sy.No.383/2 is classified as Patta. Out of the land admeasuring Ac.259-10guntas in Sy.No.383/1, an extent of Ac.150.00guntas has been alienated in favour of Rajiv Swagruha Corporation Limited (for short, 'RSCL') vide G.O.Ms.No.1541, dated 23.12.2008 and Ac.100.00guntas vide G.O.Ms.No.252 dated 21.02.2009. 97 encroachers were in unauthorized occupation of the said land to an extent of Ac.93.04guntas in Sy.No.383/1 which falls in the land alienated in favour of RSCL. The said land is kept vacant and the same was unutilized by the Housing Department which is in violation of the terms and conditions of the alienation rights. Therefore, the Government decided to develop the subject land for public purpose by way of lay out and to dispose of the land in the shape of plots through auction for the purpose of resources mobilization.

5. The aforesaid 97 unauthorized occupants/encroachers have requested the respondents to pay some compensation in lieu of their unauthorized occupation over the subject land. Negotiations were held with them including the petitioners herein. Finally, it was agreed for allotment of house sites to the said 97 land losers to an extent of Ac.300sq.yards each in the developed lay out taken up by HMDA. It was also agreed to pay an amount of Rs.1,50,000/- per acre towards ex-gratia. As per HMDA approved lay out, 100 plots were reserved in respect of the aforesaid land losers so as to enable to allot the aforesaid plots and issue plot allotment certificate viz; plot Nos.581, 582, 595, 596, 600 to 615, 618 to 633, 636 to 651, 750 to 766, 769 to 776, 777 to 784, 787 to 794, 795 to 802, 805 to 812 were reserved for the land losers.

6. On 27.06.2022 and 30.08.2022 plot numbers were allotted by the RDO, Ibrahimpatnam Division to the aforesaid 97 land losers including the petitioners through draw/lottery by allotting plot numbers, and subsequently on 14.11.2022 plot reconstituted certificates were issued to them.

7. According to the respondents, the petitioners are in illegal possession of Ac.2.12guntas of land in Sy.No.383/1 of Thorur Village and therefore, they have paid an amount of Rs.3,45,000/- at the rate of Rs.1,50,000/- per acre towards ex-gratia vide cheque bearing No.699069, dated 31.05.2008 and allotted two plots consisting of 300sq.yards each vide Plot No. 812 was allotted to Smt. B.Pochamma and Plot No.638 was allotted to B.Narasimha/petitioner herein, in

lieu of their occupied land. Though they have received the aforesaid ex-gratia and above two plots, they are not vacating the physical possession of the land instead of several appeals made by the field staff. The land which is in unauthorized occupation of the petitioners has been sold out through auction by the Government and successful auction bidder paid the total bid amount to Government and request for conveyance deed is pending.

8. On 05.11.2021, the District Collector, Ranga Reddy visited the aforesaid site during which time the petitioners, other unauthorized occupants of the said land and also villagers of Thorur Village requested him to allot land and also pay compensation. They have also submitted a written representation. Therefore, the District Collector, has requested RDO and also Tahsildar concerned to verify the petitions and submit report.

9. In the said written representations, they have also mentioned that villagers of Thorur belongs to Scheduled Caste community are in possession of the land admeasuring Ac.85.00guntas in Sy.No.383/1 of Thorur Village and they are cultivating the said land. Vide G.O.Rt.No.169, dated 29.01.2005, Government has relaxed the ban imposed vide G.O.Ms.No.1409, dated 19.08.1978 to enable the District Collector for assigning Government land admeasuring Ac.85.00 in Sy.No.383 of Thorur Village in favour of 62 Scheduled Caste families who are in physical possession of the land for the last 30 to 35 years and they are carrying on agricultural operations. They have requested for payment of compensation as per the market value and also allotment of 500 sq.yards of land for the purpose of house sites.

10. The Tahsildar, Abdullapurmet vide his letter dated 10.11.2021 submitted to RDO specifically mentioned the extents, nature of the land and also allotment of the same to RSCL. According to him, 97 encroachers were in possession of the land to an extent of Ac.93.04guntas in Sy.No.383/1 which land was alienated to RSCL for which encroachers have been paid compensation of Rs.1,50,000/- per acre. The details, such as name of encroacher, father/husband name, extent encroached, ex-gratia sanctioned and cheque numbers were also specifically mentioned. The Tahsildar, further stated that out of an extent of Ac.150.00guntas alienated to RSCL in two subject lands, an extent of Ac.130.00guntas is available on ground in two parcels i.e. Ac.115.00guntas and Ac.15.00guntas. Out of the above extents, an extent of Ac.4.00guntas is covered by agricultural encroachment, houses and water tank and he has also submitted location sketch. Thus, the Tahsildar, Abdullapurmet in his report dated 10.11.2021 recommended to accept the request made by the aforesaid persons for allotment of house sites of 500sq.yards each to the aforesaid 97 encroachers who have been paid compensation. He has also enclosed copies of acquaintance rolls.

11. Basing on the said recommendation of the Tahsildar, Abdullapurmet, vide proceedings, Lr.No.E/3110/2021, dated 30.11.2021, the RDO, informed the District Collector, Ranga Reddy District that he has accepted the report of the Tahsildar, Abdullapurmet and requested to take necessary action in the matter.

12. It is also relevant to note that the Government had issued G.O.Rt.No.20, dated 10.03.2020 for disposal of all assets of RSCL by conducting open auction on an 'as is where is' basis and constitution of a High Power Committee of Secretaries to work out the modalities for disposal.

13. The Government vide G.O.Rt.No.23, dated 09.02.2022 appointed the Metropolitan Commissioner, Hyderabad, Metropolitan Development Authority, Hyderabad, the Vice Chairman & Managing Director, Telangana State Industrial Infrastructure Corporation Limited, Hyderabad and District Collector concerned to conduct public/e-auction and to sell the open plots and houses/plots of RSCL including the aforesaid land. The lay out has been prepared and earmarked 1000 individual plots of various sizes for resource mobilization through public auction/e-auction. A newspaper notification to that effect has been issued in leading newspapers for e-auction for participation of the company (Private/public/limited liability partnership)/ Proprietary firms/ Partnership firms/LLP Trusts/Registered Societies/Financial Institutions, Banks, NBFC, Real Estate Funds, Public and Semi Public undertaking of State Government or Central Government, Government Departments, Joint Venture Consortium.

14. The last date for registration of e-auction by the participants was fixed on 10.03.2022 and e-auction was conducted on 14, 15,16 and 17.03.2022.

15. According to the respondents, the petitioners are neither assignees of the aforesaid land nor patta holder of the said land. Considering their possession over the aforesaid land admeasuring Ac.2.12guntas in Sy.No.383/1, as encroachers, the respondents have paid the aforesaid amount of Rs.3,45,000/- vide cheque bearing No.699069, dated 31.05.2008 to the petitioners herein and also allotted aforesaid plots viz: Plot Nos.638 and 812 admeasuring 300 sq.yards each. Therefore, the petitioners cannot contend that no land acquisition proceedings are initiated. In fact, they are illegal occupants. Despite receiving the aforesaid compensation, they are creating problem. The possession of the aforesaid plots will be given to them along with allotment certificates.

16. According to the petitioners, they are in possession of the land admeasuring Ac.3.30guntas in Sy.No.383 of Thorur Village and they are carrying on agricultural operations. Respondents have paid only Rs.3,45,000/- in respect of Ac.2.12guntas out of the aforesaid land admeasuring Ac.3.30guntas. Though the Tahsildar and the RDO concerned have recommended for allotment of 500sq.yards of plots only 300sq.yards of plots each to the petitioners were allotted. Without completing the said exercise, the respondents cannot dispossess the petitioners from the aforesaid property. Thus, according to them, both are in possession of the land admeasuring Ac.3.30guntas in Sy.No.383/1 but not Ac.2.12guntas in the said survey number as alleged by the respondents.

17. Learned counsel for the petitioners would submit that both the petitioners belongs to Scheduled Caste, the respondents have agreed to pay compensation at the rate of Rs.1.50,000/- per acre and 500 sq.yards of plot to each to the

petitioners without complying with the said conditions, they are trying to dispossess the petitioners illegally. Respondents are trying to dispossess the petitioners without initiating any land acquisition proceedings, without following due procedure laid down under law. The G.O.Rt.No.23, dated 09.02.2022 is illegal and proposed developmental activities being carried out by the revenue and HMDA officials, is also illegal.

18. Whereas, learned Government Pleader for Revenue basing on the written instructions of the Tahsildar, Abdullapurmet would contend that as per the negotiations and agreement between the officials and aforesaid 97 unauthorized occupants of the aforesaid land, an amount of Rs.3,45,000/- was paid to the petitioners vide Cheque No.699069 dated 31.05.2008 towards compensation and the aforesaid two plots were allotted to them and the Government issued patta allotment certificates. Since the petitioners are neither assignees nor patta holders of the aforesaid land, it is Government land, they are illegal occupants of the land, the question of initiating of land acquisition proceedings does not arise. Considering their possession over the aforesaid land, respondents have agreed to pay aforesaid compensation and allotted plots to them. The petitioners have no right to claim more than the aforesaid land admeasuring Ac.2.12guntas. They have not filed any document to show that they are in illegal occupation of Ac.3.30guntas and they were in illegal occupation of only Ac.2.12guntas in Sy.No.383/1. Though Tahasildar and RDO, have recommended for 500sq.yards plots each and Government has decided to give only 300 sq.yards of plot each to the illegal occupants as agreed by them. Therefore, they cannot contend that they are entitled for 500sq.yards of plot each.

19. Sri V.Narasimha Goud, learned Standing Counsel appearing for HMDA would submit that pursuant to the aforesaid G.O. for constitution of Committee, they have issued notification fixing e-auction on 10.03.2022 and conducted auction of the plots on 14/15/17.03.2022. They have also prepared lay out earmarking thousand plots on various sizes. Therefore, the petitioners have no right over the aforesaid property.

20. The above stated facts and the rival contentions would reveal that according to the petitioners they are in occupation of Ac.3.30guntas of land in Sy.No.383/1 and they are entitled for compensation in respect of the said land at the rate of Ac.1,50,000/- per acre. They are also entitled for 500sq.yards of plot each as recommended by the Tahsildar and RDO, whereas, respondents have paid compensation of Rs.3,45,000/- in respect of the land admeasuring Ac.2.12guntas only and allotted 300sq.yards of plot each. They are entitled for compensation in respect of balance land of Ac.1.13guntas and allotment of 200sq.yards of plot more to each of them.

21. With regard to the contention of the petitioners that they are in illegal occupation of the land admeasuring 330sq.yards, it is relevant to note that they have filed representation dated 01.02.2022 submitted to Tahsildar, Abdulpurmet and also to the District Collector, Ranga Reddy District. In the said

representation, it is contended by B.Narasimha, the petitioner that he is in occupation of land admeasuring Ac.3.00 in Sy.No.383 and Government has taken possession of the said property. He has also filed receipt issued by Power Distribution Company/TSSPDCL and tax receipts.

22. Perusal of the said tax receipts would reveal that the name of B.Narasimha is mentioned and land admeasuring Ac.1.20guntas in Sy.No.383/1 is mentioned. Except the aforesaid tax receipts and demand receipts in respect of electricity, the petitioners have not filed any document to show that they were in occupation of the land admeasuring Ac.3.30guntas in Sy.No.383/1 of Thorur Village.

23. In paragraph No.3 of the writ affidavit filed in the aforesaid three writ petitions, though they have claimed that revenue records from the years 1955, 1958, 1965, 1966, 1975-76, 1980-81, 1985-86, 1990-91, 1995-96, 2000-01, 2005-06, 2009-2010 shows the possession of the petitioner over the aforesaid land admeasuring Ac.3.30guntas, they have not filed copies of the aforesaid pahanies. Whereas, respondents specifically contended that the petition is in possession of the land admeasuring Ac.2.12guntas only.

24. It is relevant to note that after allotment of the aforesaid land, negotiations were held between the aforesaid 97 unauthorized occupants of the aforesaid land and it was agreed between them to pay an amount of Rs.1,50,000/- per acre each towards compensation and 300sq.yards of plot each. Accordingly, the respondents have paid an amount of Rs.3,45,000/- to the petitioners vide cheque No.699009 dated 31.05.2008 itself in respect of the foresaid land admeasuring Ac.2.12guntas towards ex-gratia. The petitioners have received the aforesaid cheques and encashed. There was no resistance from the petitioners stating that they are in possession of the land admeasuring Ac.3.30guntas but not Ac.2.12guntas.

25. When the aforesaid G.O.Rt.No.23, dated 09.02.2022 was issued appointing Committee of Officers to conduct e-auction by developing the aforesaid plots, they have filed the aforesaid W.P.No.7736 of 2022 only on 10.02.2022. Even according to the petitioner B.Narasimha, he was in possession of Ac.3.30guntas in Sy.No.383 and the Government has taken possession of the aforesaid property. He has been cultivating the aforesaid land. Thus, the petitioners herein failed to establish by way of filing document to contend that they are in unauthorized occupation of Ac.3.30guntas of land in Sy.No.383/1 of Torur Village. Therefore, they have received the aforesaid compensation on 31.05.2022. After a lapse of 14 years they cannot contend that they are in unauthorized occupation of the land admeasuring Ac.3.30 guntas. Therefore, the said contention of the petitioner is untenable.

26. With regard to the second contention of the petitioners that they are entitled for 500sq.yards of plot each as recommended by the Tahsildar and the RDO is concerned, as discussed supra, the District Collector visited the site on 05.11.2021 when the villagers, the aforesaid unauthorized occupants including

the petitioners have submitted their representation on 05.11.2021, referring to G.O.Rt.No.169, dated 29.01.2005 and G.O.Ms.No.1409, dated 09.08.1978 and requested to pay compensation as per market value and also allot 500sq.yards of land for the purpose of house sites. The contents of the said petition was enquired into by the Tahasildar concerned and report dated 10.11.2021 was submitted to the RDO specifically mentioning the name of the encroachers, extent encroached, ex-gratia paid and cheque numbers.

According to the Tahsildar, there are 97 encroachers who are in possession of the land admeasuring Ac.93.04 guntas in Sy.No.383/1, compensation was paid at the rate of Ac.1,45,000/- as per the extent encroached. According to the Tahsildar, the request of the aforesaid unauthorized occupants of land for allotment of 500sq.yards of plot each to be considered. The RDO concerned has accepted the said recommendation of the Tahsildar concerned. The RDO has submitted his report to the District Collector vide proceedings dated 30.11.2021. However, according to the District Collector, the Government has accorded to provide house plot admeasuring 300sq.yards each to the aforesaid 97 unauthorized occupants though the recommendation was for 500sq.yards of plot each. Therefore, 100 plots were earmarked for the aforesaid 97 unauthorized occupants. The plots were allotted on 27.06.2022 and 30.08.2022 to the aforesaid 97 unauthorized occupants who are the land losers by drawl of lottery and certificates were issued to them. Thus, Plot No.638 was allotted to Smt. B.Pochamma and Plot No.812 was allotted to B.Narasimha admeasuring 300sq.yards each. Thus, the petitioners herein cannot contend that they are entitled for 500 sq.yards each,

27. It is also not in dispute that the petitioners herein are neither assignees nor patta holders of the aforesaid land. They are only unauthorized occupants of the aforesaid land. Considering the said fact only, the Government has paid ex-gratia of Rs.1,50,000/- per acre and 300sq.yards of plot each to the aforesaid 97 unauthorized occupants.

28. It is relevant to note that in the list of 97 encroachers mentioned in the proceedings dated 30.11.2021 of RDO, the name of B.Narasimha is mentioned at Sl.No.62 and extent of unauthorized occupation is mentioned as Ac.2.12.guntas. Smt. B.Pochamma's name is not there in the said list. Even then, the respondents have allotted Plot No.812 to Smt.B.Pochamma admeasuring 300sq.yards. Therefore, the petitioners cannot contend that they are entitled for 500sq.yards each of the plots in the aforesaid land. The said contention of the petitioners is also untenable.

29. Viewed from any angle, the petitioners are not entitled for any relief much less to the relief sought in the aforesaid three writ petitions and therefore they are liable to be dismissed.

30. In the result, these three writ petitions are dismissed. However, respondents shall ensure delivery of possession of the aforesaid plots in favour of the

petitioners and also handing over of the plot allotment certificates to the petitioners.

Consequently, miscellaneous petitions, if any, shall stand closed.