

(2013) 09 AP CK 0022

In the Andhra Pradesh High Court

Case No : Writ Petition No. 22795 of 2013

Shaik Mohammad

APPELLANT

Vs

The Government of Andhra Pradesh

RESPONDENT

Date of Decision : 05-09-2013

Acts Referred:

Citation : (2014) 2 ALD 256 : (2014) 3 ALT 90 : (2014) ALT(Rev) 239

Hon'ble Judges : C.V. Nagarjuna Reddy, J

Bench : Single Bench

Advocate : P. Sai Prasad, for the Appellant;

Final Decision : Disposed Off

Judgement

C.V. Nagarjuna Reddy, J.—This Writ Petition is filed for a mandamus to declare the action of the respondents in dispossessing the petitioner from the land admeasuring Ac. 4-95 cents in Sy. No. 813/1 of Koduru village, Chilamathur Mandal, Anantapur District, for the purpose of establishment of a Special Economic Zone (SEZ), as illegal and arbitrary. It is the pleaded case of the petitioner that he is a landless poor person and that he was assigned the above mentioned land vide D.A.R. Dis. No. 9/1404, dated 29-10-1994 by respondent No. 5. The petitioner was serving the Army at that point of time and the land assigned to him was kept in the care and custody of his family members. It is also the pleaded case of the petitioner that he has received compensation on five occasions through cheques from the Andhra Grameena Bank, Kodikondla, towards crop damages. When the petitioner's request for issuance of pattadar passbook and title deed was not considered, he has filed W.P. No. 13855/2013 which was disposed of by this Court by order dated 30-4-2013 by permitting him to make a representation with the further direction to respondent Nos. 3 to 5 to consider and take a decision thereon. On the petitioner making such representation, respondent No. 5 served an endorsement on 20-6-2013 wherein it is stated that the subject land was recorded as "Government land" in the village accounts and therefore the same was alienated to the Zonal Manager, A.P.

Industrial Infrastructure Corporation Ltd., (APIIC), Anantapur, for establishment of an Industrial Park and that the said land was subsequently registered in favour of M/s. Mediplex Pvt. Ltd., Bangalore. Feeling aggrieved by this communication, the petitioner filed this Writ Petition.

2. A counter affidavit has been filed by respondent No. 5 on behalf of himself and respondent Nos. 1 to 4, wherein it is inter alia stated that the land in question was originally classified as A.W. as per the Diglot of Kodur village; that the same was included among other lands in the list of Government lands as requisitioned by the Zonal Manager, APIIC for establishment of an Industrial Park at Chilamathur; and that only after verification of the village accounts available in the office and after inspection of the land in Sy. No. 813/1 by respondent No. 5 the land was alienated in favour of the APIIC. It is further stated that after personal inspection and verification of the village account, A-1 notice was published in respect of the land in question on 20-8-2008 inviting objections for alienation and that no objections were received. Respondent No. 5 reiterated that the name of the petitioner was not entered anywhere in the revenue record; that the land was already sold to the APIIC in the year 2008 and that in the year 2011, the same was sold to M/s. Mediplex Pvt. Ltd., by the authorised person of the Lepakshi Knowledge Hub. Respondent No. 5 has however admitted that on the application of the petitioner, the records were verified and he was supplied with a certified copy of D-Form patta along with other documents.

3. The facts emerging from the pleadings of the parties discussed above would show that the petitioner was granted a DKT patta in respect of the land in question as far back as 29-10-1994. As the petitioner was in the Army at that time, evidently he has not cultivated the land. The petitioner has also not taken care to see that his name is entered in the revenue record such as Adangal in respect thereof. Nearly two decades after the issuance of the DKT patta, the petitioner approached the respondents with a request to issue pattadar passbook and title deed. It is at this stage that it came to light that the land assigned to the petitioner was alienated for establishment of a SEZ. In the face of these admitted facts, the respondents cannot be entirely blamed for alienating the land assigned to the petitioner, as the failure of respondent No. 5 in noticing the grant of the DKT patta in favour of the petitioner is obviously a bonafide mistake. Be that as it may, the fact remains that the petitioner still holds the DKT patta and the same has not been cancelled.

4. In view of the facts noted above, the relief of possession of the land assigned to the petitioner under the DKT patta cannot be granted to him. However, as the petitioner is deprived of the land assigned to him by alienating the same for a public purpose, as per the law governing the field, he is entitled to ex-gratia.

5. A 7-Judge Bench of this Court in LAO-cum-Revenue Divisional Officer, Chevella Division and Others Vs. Mekala Pandu and Others, held that an assignee is entitled to compensation on par with a private pattadar. However, the said Judgment is the subject matter of appeal before the Supreme Court.

6. At the hearing, the learned Assistant Government Pleader for Revenue stated since the Judgment in Mekala Pandu (1-supra) is the subject matter of appeal before the Supreme Court, the petitioner is entitled to payment of ex-gratia as per G.O.Ms. No. No. 1307, dated 23-12-1993.

7. As the petitioner's land was taken over without cancelling the DKT patta or resuming the land covered thereby, he is entitled to payment of ex-gratia as per G.O.Ms. No. 1307, dated 23-12-1993, as at present. If the Judgment in Mekala Pandu (1-supra) is confirmed by the Supreme Court, the petitioner will be entitled to payment of higher ex-gratia/compensation in terms of the said Judgment. The petitioner is given liberty to approach respondent No. 3 for claiming higher ex-gratia/compensation in such an event.

8. The Writ Petition is accordingly disposed of with the direction to respondent No. 3 to pay ex-gratia/compensation to the petitioner in respect of the land in question as per G.O.Ms. No. 1307, dated 23-12-1993, subject to revision of such ex-gratia/compensation depending on the outcome of the Judgment of the Supreme Court as referred above. Respondent No. 3 shall complete this exercise within a period of three months from the date of receipt of this order. As a sequel to the disposal of the Writ Petition, WPMP No. 27961/2013 filed for interim relief is disposed of as infructuous.