
(2012) 09 AP CK 0051

In the Andhra Pradesh High Court

Case No : Writ Petition No. 33217 of 2011

T. Madan Mohan Reddy and others

APPELLANT

Vs

State of A.P. and others

RESPONDENT

Date of Decision : 25-09-2012

Acts Referred:

Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 — Section 5(5)

Citation : (2013) 1 ALD 201 : (2012) 6 ALT 490

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : C. Padmanabha Reddy, for the Appellant;

Judgement

L. Narasimha Reddy

1. The petitioners 1 and 2 are the sons and the 3rd petitioner is the daughter of Sri T. Chandrasekhar Reddy. While practicing as an Advocate, in the year 1940, Chandrasekhar Reddy joined Satyagraha movement, started by Mahatma Gandhi for the Freedom of the Country. It is stated that he has undergone imprisonment for six months and paid fine of Rs. 200/-, on being convicted for participation in the struggle. After the country became independent, he was allotted an extent of Ac. 8.02 cents of land in Sy. No. 33/5 of Kakkalapalli Village, Anantapur District, in the year 1949, in recognition of his services as Freedom Fighter. Sri Vinobha Bhave, who launched the Bhoodan Yagna, visited the State of Andhra Pradesh in the year 1956. Chandrasekhar Reddy is said to have donated the land, that was allotted to him. Later on, he joined the A.P. Judicial Service. When the persons, who were given pattas by the A.P. Bhoodan Yagna Board (for short "the Board"), attempted to cultivate the land, objections emerged from certain persons claiming as Sivaizamadars, in respect of the land that was allotted to Chandrasekhar Reddy. The claims of such persons were upheld and the assignment made in his favour was cancelled.

2. The petitioners submit that in view of the cancellation of allotment of land in

Sy. No. 33/5, the District Collector assigned the land in Sy. Nos. 33/9 & 11 of Kakkalapalli Village, Anantapur District, admeasuring Ac. 4.72 cents to their father. It is stated that at one stage, the Board claimed the land in Sy. Nos. 33/9 & 11, that was assigned to Chandrasekhar Reddy, but later on, they gave up the claim, vide letter dated 23-05-1984, on being informed about the actual state of affairs. Reference is also made to the litigation, that ensued on account of the claims made by some of the allottees, from the Board.

3. It is stated that O.S. No. 150 of 1989 was filed by two allottees from the Board against Chandrasekhar Reddy, in the Court of Additional Subordinate Judge, Anantapur, for the relief of declaration of title and perpetual injunction. It is stated that during the pendency of the suit, Chandrasekhar Reddy died and the petitioners were brought on record. The suit was dismissed and A.S. No. 19 of 1997 filed in the Court of IV Additional District Judge (Fast Track Court) Anantapur was also dismissed, on 19-08-2002.

4. The petitioners made an effort to get the pattadar pass books and title deeds, as regards the land in Sy. No. 33/9 & 11. They came to know that the Tahsildar, the 5th respondent herein, issued pattas in favour of certain individuals for construction of houses. On further verification, they came to know that the entire land was utilized for housing scheme, taken up by the Government. The petitioners pray for a Writ of Mandamus to declare the action of the respondents in utilizing their land for construction of houses to the weaker sections, and for allotment of alternative land, or for payment of compensation.

5. On behalf of the respondents, the Tahsildar, the 5th respondent filed a detailed counter-affidavit. The various facts, such as that Chandrasekhar Reddy was initially allotted land in Sy. No. 35/5 of Kakkalapalli Village, and on cancellation of the same, the land in Sy. Nos. 33/9 & 11 allotted to him, making of claims by the beneficiaries under Bhoodan Yagna Board; the dismissal of the suit filed by those persons; are admitted. In addition to that, the 5th respondent stated that though pattadar pass books and title deeds were issued in favour of two allottees under the Bhoodan Yagna Board, in respect of the land in Sy. Nos. 33/9 & 11, the same were cancelled in an appeal filed by the petitioners. However, without stating the manner or the nature of proceedings initiated, the 5th respondent stated that the land was utilized for providing house sites to the weaker sections of the society.

6. Sri C. Padmanabha Reddy, learned Senior Counsel appearing for the petitioners submits that there was absolutely no basis for the respondents in using the land allotted to Sri Chandrasekhar Reddy for providing house sites to the weaker sections. He submits that the allottee became the absolute owner, and the possession of the land allotted to him could have been taken only by initiating the proceedings under the Land Acquisition Act (for short "the Act"), or by providing alternative land.

7. Learned Government Pleader for Revenue, on the other hand, submits that the allotment is always subject to resumption for any public purpose, and that no

exception can be taken to the utilization of the land for a public purpose. He contends that though attempt was made to provide alternative land to the petitioners, the same did not fructify, on account of disinclination on the part of the petitioners.

8. In recognition of the services rendered by Sri Chandrasekhar Reddy in the freedom struggle, the State allotted an extent of Ac. 8.02 cents of land in Sy. No. 33/5 of Kakkalapalli Village, Anantapur District, in the year 1949. As a measure of generosity, he donated the same to the Board, in the year 1956. However, the allotment was cancelled on finding that there were Sivaizamadars over the land. Long thereafter, Ac. 4.72 cents in the immediate neighborhood, i.e. Sy. Nos. 33/9 & 11 was allotted to him.

9. The Board reeled under the impression that the land allotted to Chandrasekhar Reddy at a later point of time is also under its control, and granted pattas in favour of Smt. Sarojanamma and Narsamma. They started asserting rights and have filed W.P. No. 2041 of 1985 before this Court. The enquiry directed by this Court into that resulted in a finding that Chandrasekhar Reddy never donated the land in Sy. Nos. 33/9 & 11 to the Board. The suit for declaration of title and perpetual injunction filed by those two individuals ended in dismissal, and so was the first appeal, filed against the decree.

10. Obviously on the basis of the allotment made by the Board, the 5th respondent issued pattadar pass books and title deeds in favour of the two ladies, named above. However, the appeal filed by the petitioners u/s 5(5) of the A.P. Rights in Land and Pattadar Pass Books Act, 1971 was allowed and pattadar pass books and title deeds so issued were cancelled. At a time when the petitioners were making efforts to get pattadar pass books and title deeds for themselves, the respondents have taken possession of the land and issued house site pattas to the persons belonging to weaker sections.

11. Hardly any justification or basis is pleaded by the respondents for taking possession of the land. They do not dispute the fact that the land was allotted to Chandrasekhar Reddy, and that the petitioners are his legal heirs. In case the respondents needed the land, they ought to have initiated proceedings under the Act. Assuming that the land allotted by the Government is subject to resumption for any public purpose, they were under obligation to pay ex gratia, which is equivalent to the market value, as held by a Full Bench of this Court, in LAO-cum-Revenue Divisional Officer, Chevella Division and Others Vs. Mekala Pandu and Others,

12. The record discloses that the allotment of land by the Government in recognition of participation of Chandrasekhar Reddy in the freedom struggle has landed not only him, but also his legal heirs in prolonged legal battle, than helped them in any manner. For the past half-a-century, proceedings of one category or the other were haunting the family of the freedom fighter.

13. Not only they did not get any benefit out of the land, but had to spend

considerable time and money, in pursuing the litigation. The fallacy on the part of the revenue administration and the Board has transformed an act of honour to a freedom fighter, into a perennial source of litigation. When all legal hurdles were created, the State occupied the land with impunity and violated all possible norms and provisions of law.

14. It is no doubt true that the respondents made an effort to provide alternative land to the petitioners. However, the lands so chosen are in no way nearer to the value of the land in Sy. Nos. 33/9 & 11 of Kakkalapalli Village. Populism and bending to popular demand weighed with the Government, than to honour and respect the commitment towards a freedom fighter. A situation is brought about, where the only alternative for the State is to pay compensation for the land taken away from the petitioners. Since the distinction between ex gratia, on the one hand, and compensation payable under the Act does not exist any more, the respondents shall be under obligation to initiate proceedings under the Act.

15. Hence, the writ petition is allowed, and the respondents are directed to pay compensation to the petitioners for Ac. 4.72 cents of land in Sy. Nos. 33/9 & 11 of Kakkalapalli Village, Anantapur District, by initiating the proceedings under the Land Acquisition Act. The entire proceedings shall be completed within a period of six months from today. The miscellaneous petitions filed in this writ petition shall also stand disposed of. There shall be no order as to costs.