
(2022) 09 TEL CK 0030

High Court For The State Of Telangana:: At Hyderabad

Case No: Writ Petition No.16239 Of 2022

Thota Rajamalla Reddy

APPELLANT

Vs

State Of Telangana

RESPONDENT

Date of Decision: Sept. 5, 2022

Acts Referred:

- A.P. (Telangana Area) Abolition Of Inams Act, 1955 - Section 24, 32, 35E, 38E(1), 38E(ii)

Hon'ble Judges: Mummineni Sudheer Kumar, J

Bench: Single Bench

Advocate: B Mayur Reddy

Final Decision: Dismissed

Judgement

1.Heard Mr. P. Venugopal, learned Senior Counsel appearing on behalf of Mr. B. Mayur Reddy, learned counsel for the petitioners and learned

Government Pleader for Revenue and Mr. V. Balaram, learned counsel appearing for the respondents 5 to 15.

2. This Writ Petition is filed questioning the notice issued by the fourth respondent in File No.B/1061/2019 dated 16.03.2022 whereby, the petitioners

herein were directed to vacate the schedule land mentioned therein within fifteen days or to show cause as to why they should not be evicted from the

said land. The subject matter of the impugned notice is the land situated in Survey Nos.53, 55 and 56 admeasuring Ac.1.17 gts, Ac.0.07 gts and

Acs.7.12 gts respectively (total admeasuring Acs.8.36 gts) of Jeedimetla Village, Quthbullapur Mandal, Medchal-Malkajgiri District. A perusal of the

said impugned notice shows that the same was issued by the fourth respondent pursuant to an order passed by the Hon'ble Supreme Court in Civil

Appeal Nos.2506 and 2507 of 2021 dated 01.10.2021.

3. The brief background facts of the case are that the father of the petitioners herein namely Thota Balakrishna Reddy was granted Occupancy

Rights Certificate (ORC for short) under the provisions of the A.P. (Telangana Area) Abolition of Inams Act, 1955 (the Act, 1955 for

brevity) in respect of the subject land in File No.H/206/1976 dated 19.02.1982. Aggrieved thereby, some of the unofficial respondents herein claiming

to be the legal heirs of one Mandala Lachamaiah, who is stated to be the protected tenant in respect of the subject land, filed W.P.No.19611 of 2015

before this Court and the said Writ Petition was dismissed by an order dated 01.07.2017 while relegating the petitioners therein to file an appeal before

the appellate authority under Section 24 of the Act, 1955 for the relief of cancellation of ORC granted in favour of the father of the petitioners herein.

Accordingly, the fifth respondent and others filed an appeal under Section 24 of the Act, 1955 before the appellate authority, namely the Joint

Collector, but the said appeal was dismissed by the Joint Collector on the ground that the same was barred by limitation and that the deceased

protected tenant surrendered his rights under Section 38-E of the Act, 1955 before the Inams Tribunal. Aggrieved thereby, the fifth respondent herein

and others approached this Court by filing C.R.P.No.3848 of 2018 and the said CRP came to be allowed by an order dated 03.06.2019 duly setting

aside the order passed by the Joint Collector under Section 24 of the Act, 1955 as well as the order passed by the third respondent herein dated

19.02.1982 i.e. the proceeding under which the father of the petitioners herein was granted ORC. The said CRP.No.3848 of 2018 was filed by the

respondents 5, 6, 10 and 12 to 15 herein claiming to be the legal heirs of original tenant namely Mandala Lachamaiah. The status of the petitioners in

the CRP as legal heirs or successors in interest of the original protected tenant was not disputed in the said CRP.

4. Aggrieved by the order passed in CRP, the petitioners herein filed Civil Appeal Nos.2506 and 2507 of 2021 before the Hon'ble Supreme Court

and the Hon'ble Supreme Court by an order dated 01.10.2021 dismissed the Civil Appeals and the penultimate paragraphs of the order of the

Hon'ble Apex Court reads as under:-

“However, ownership rights were granted to the protected tenant in respect of land measuring 19 acres and 16 guntas whereas

occupancy rights have been granted in respect of the land measuring 31.05 guntas including of land falling in Survey Nos.61 and 62 in

Village Jeedimetla on 19.02.1982. Therefore, the said occupancy rights certificate in favour of the purchaser shall be valid in respect of the

land falling under Survey Nos.61 and 62, which is not the land claimed by the protected tenant as part of their tenancy. The Occupancy

Rights Certificate in respect of land falling in Survey Nos.53, 54, 55 and 56 is null and void and inoperative.

The protected tenant shall be entitled to restoration of possession in terms of explanation to Section 38-E (1) read with Section 32 of the

Tenancy Act. The Tehsildar to ensure that the possession is delivered to the protected tenant within 3 months.

Thus, the present appeals are dismissed except to the extent of land falling in Survey Nos.61 and 62 in respect of which the occupancy

certificate granted to the purchasers on 19.02.1982 would be valid.”

Thus, the Hon'ble Apex Court, having declared the ORC granted in favour of the father of the petitioners herein in respect of the land in Survey

Nos.53, 54, 55 and 56 as null and void and inoperative, declared that the protected tenant shall be entitled to restoration of possession in terms of

explanation under Section 38-E(1) read with Section 32 of the Tenancy Act. It is further directed that the Tahasildar shall ensure that the possession

was delivered to the protected tenant within three months.

5. It is in the light of the background facts as noted above and pursuant to the said order passed by the Hon'ble Apex Court the fourth respondent

issued a notice dated 14.02.2022 in File No.B/1061/2019 requesting the petitioners to appear before him on 21.02.2022 for restoration of possession, as

directed by the Hon'ble Apex Court. The petitioners herein stated to have submitted their written arguments on 07.03.2022 raising their objections

for such restoration. Thereafter, the impugned notice came to be issued requiring the petitioners herein to deliver possession or to show cause as to

why they should not be evicted from the subject land.

6. The impugned notice is questioned in this Writ Petition firstly on the ground that the respondents 5 to 15 herein have not obtained a succession

certificate evidencing that they are the successors in interest of the protected tenant and the original protected tenant is no more and in order to

restore possession to the protected tenant under proviso to sub-Section (ii) to Section 38-E to the protected tenant or holder of the certificate, it is

obligatory on the part of the Tahsildar to give notice to the occupant thereof in the prescribed manner and such an exercise require a detailed enquiry

to be conducted by the Tahsildar but in the instant case, the respondent-Tahsildar straight away issued the impugned notice without there being any

enquiry as contemplated under the proviso referred to above. Secondly, it is contended by the learned Senior Counsel that there is dispute among the

legal heirs of the protected tenant and one set of legal heirs have approached this Court by filing W.P.No.22674 of 2021 seeking succession in respect

of the same subject land through the same original protected tenant. Thus, the Tahsildar is alleged to have prejudged the issue even before issuing the

notice and concluded that the respondents 5 to 15 herein are entitled for restoration of possession. It is thirdly contended that aggrieved by the order

passed by the Hon'ble Apex Court in Civil Appeal Nos.2506 and 2507 of 2021, review petitions have been filed and they are going to come up for

consideration before the Hon'ble Apex Court shortly. Fourthly, it is contended by the learned Senior Counsel that the written arguments filed by

the petitioners herein in response to the notice dated 14.02.2022 are totally ignored and impugned notice was issued by the fourth respondent.

7. Mr. V. Balaram, learned counsel appearing for the respondents 5 to 15 herein contended that the impugned notice came to be issued in terms of the

order dated 18.07.2022 passed by the Hon'ble Apex Court and the petitioners herein have no locus standi to raise any objection of whatsoever

nature as they have lost the case before the Hon'ble Apex Court and the unofficial respondents herein have succeeded. He further contended

that the review application filed by the petitioners herein the Civil Appeal Nos.2506 and 2507 of 2021 are also dismissed by the Hon'ble Apex

Court and placed the order, dated 18.07.2022, passed by Hon'ble Apex Court. It is further brought to the notice of this Court that a Contempt

Case came to be filed before the Hon'ble Apex Court complaining the non-compliance of the order passed in Civil Appeal Nos.2506 and 2507 of

2021 and thereafter, the fourth respondent herein passed an order in Case Nos.B/763/2019 and B/1061/2019 dated 14.07.2022 directing the Mandal

Revenue Inspector and Mandal Surveyor to deliver the subject land admeasuring Acs.8.36 gts out of Acs.10.00 gts to the respondents 5 to 15 herein.

Thereafter, the possession of the subject land was also stated to have been delivered to the respondents 5 to 15 by conducting a panchanama on

15.07.2022.

8. Mr. Parasa Anatha Nageswara Rao, learned Government Pleader for Revenue, also confirmed the fact of delivery of possession in favour of the

respondents 5, 7 to 15 (sixth respondent since died) and questioning the said order dated 14.07.2022 passed by the respondent-Tahsildar, the

petitioners herein filed another Writ Petition being W.P.No.31067 of 2022 before this Court. Thus, the delivery of possession in favour of the

respondents 5, 7 to 15 is confirmed.

9. When this matter came up for admission, a coordinate bench of this Court, passed an order, dated 30.03.2022, directing maintenance of status

quo as obtaining on 30.03.2022 by both the parties till the next date of hearing. Subsequently, due to paucity of the time, the said interim order was

extended from time to time by this Court.

10. Having considered the submissions made on either side and having perused the material on record, the question that arises for consideration is

whether the petitioners are able to make out any ground for grant of relief as sought for in this writ Petition or not?

11. In the light of the admitted fact situation, as noted in the preceding paragraphs, the undisputed fact situated that emerges is that the ORC granted

in favour of the father of the petitioners herein is declared as void and thereby, the petitioners herein who are claiming through the said ORC holder

ceased to have any interest in the subject property. Further, it also emerges that the ORC that was granted in favour of the father of the petitioners

herein was set aside at the instance of the respondents 5, 6, 10, 12 to 15 herein. There is no dispute or difference among the respondents 5 to 15

herein. All the said respondents are represented by the same counsel and another counter affidavit has been filed on their behalf in the present Writ

Petition. Further, the claim of some third parties said to have been raised by filing W.P.No.22764 of 2021 is concerned, it is for the petitioners herein

to pursue their remedies and the same is nothing to do with the petitioners herein. On being asked by this Court, learned Senior Counsel appearing for

petitioners fairly submitted that petitioners herein are not claiming through any of the legal heirs of original protected tenant. Hence, even assuming

that there are disputes among the legal heirs of original protected tenant, the same cannot be a ground to find fault with the impugned notice.

Therefore, the attempt that is now sought to be made by the petitioners herein to avoid restoration of possession in favour of the unofficial respondents

herein on the ground that there is no succession granted in their favour is only futile attempt to delay the process of restoration of possession. Thus,

the first two grounds raised by the learned Senior Counsel, Mr. P.Venugopal, are not sustainable.

12. During the course of proceedings before this Court, it is also brought to the notice of the Court that the review petitions said to have been filed by

the petitioners herein in Civil Appeal Nos.2506 and 2507 of 2021 also came to be dismissed by the Hon'ble Apex Court by an order dated

18.07.2022 and a copy of the order passed by the Hon'ble Apex Court in the said review application is placed before this Court. Hence, the third

ground also not available to the petitioners.

13. The fourth ground is with regard to non-consideration of the written arguments submitted by the petitioners herein on 7.03.2022 before the fourth

respondent is concerned, this Court is of the view that the fourth respondent having considered the same issued impugned notice explaining in detail

about requirement of restoring the possession in terms of the order passed by the Hon'ble Apex Court an opportunity is afforded to the petitioners

to submit their stand. Even this Court has perused the said written arguments dated 07.03.2022, and no formidable objection is seen and hence, any

non-reference to the said written arguments while issuing the impugned notice is not fatal. Hence, this Court does not find any substance on this

ground also.

14. As already noted above, the Hon'ble Apex Court directed the respondent-Tahsildar to restore possession to the protected tenant within a

period of three months from the date of the said order. The Hon'ble Apex Court passed the said order on 01.10.2021. Thus, the possession of the

subject land is required to be restored to the protected tenant on or before 31.12.2021. Thus, the dispute raised about the legal status of the

respondents 5 to 15 herein is only to procrastinate restoration of possession in their favour. As already noticed above, the status of the respondents 5,

6, 10, 12 to 15 herein as legal heirs or successors in interest of the original protected tenant namely Mandala Lachamaiah was not disputed by the

petitioners herein during the pendency of CRP.No.3848 of 2018 or before the Hon'ble Apex Court in the above referred Civil Appeals. Thus, by

obtaining an interim order in the present Writ Petition virtually the petitioners have prevented the respondents from giving effect to the order passed by

the Hon'ble Apex Court in Civil Appeal Nos.2506 and 2507 of 2021 for more than three months.

15. In the light of the above, this Court does not find any merit in the Writ Petition and this Court is of the considered view that the attempt that is

made by the petitioners herein to delay the process of restoration of possession by taking flimsy and unsustainable grounds after having lost the entire

litigation up to the Hon'ble Apex Court, is nothing but abuse of process of law and hence, this Court is left with no other alternative except to

dismiss this Writ Petition with exemplary costs quantified at Rs.25,000/- (Rupees twenty five thousand only) payable to the High Court Legal Services

Committee, High Court for the state of Telangana, Hyderabad. The costs imposed herein shall be paid within thirty (30) days from the date of this

order and the Registrar (Judicial) is directed to ensure compliance of the same.

There shall be no order as to costs. Miscellaneous applications, if any, pending shall stand closed.