

Paramkusham Vijaya Laxmi Vs Government of Andhra Pradesh and Others

Court: Andhra Pradesh High Court

Date of Decision: Dec. 10, 2013

Citation: (2014) 2 ALD 483 : (2014) 4 ALT 165

Judgement

@JUDGMENTTAG-ORDER

C.V. Nagarjuna Reddy, J.

This writ petition is filed for a mandamus to declare the inaction of the respondents, in restoring the land

admeasuring Acs.5.00 in Survey No. 449/32 of Surampalli Village, Sircilla Mandal, Karimnagar District, or in allotting alternative land to the

petitioner, as illegal and arbitrary. The petitioner claims that she is the widow of a freedom fighter; that her husband was assigned an extent of

Acs.5.00 of land in Survey No. 449/32 of Surampalli Village on 29.7.1976; and that her husband died on 9.3.2000. She has pleaded that without

any notice or opportunity to her, the land assigned to her husband was allotted to Textile Park in the year 2002-03; that she has approached the

respondents with a representation on 28.5.2010 for restoration of the said land and the same was followed by another representation dated

18.4.2011; and that on 1.6.2011, respondent No. 2 has addressed a letter to respondent No. 4 to examine the claim of the petitioner. In response

to the same, respondent No. 4 has submitted a report on 18.7.2013, wherein he has stated that the petitioner's husband was a freedom fighter and

that he was sanctioned freedom fighter's pension. Respondent No. 4 has also stated in his report that for formation of Sircilla Textile Park,

Acs.500.00 of Government land was resumed, which included the extent of Acs.5.00 of land assigned to the petitioner's husband. It is further

stated in the said report that the assigned land was brought under cultivation and he has noticed some field remains. He has recommended that

though a part of the land allotted to Textile Park is still vacant, it may not be feasible to restore the above-mentioned land to the petitioner and that

instead, the petitioner may be advised to choose any other Government land free from encroachment in any Village of Sircilla Division. In the

alternative, respondent No. 4 has recommended to de-notify the extent of Acs.5.00 of land and re-deliver the possession thereof to the petitioner.

2. Having regard to the abovementioned report of respondent No. 4, this Court has passed an order on 5.11.2013, directing respondent No. 2 to

ensure that a suitable alternative land is identified for allotting the same to the petitioner.

3. Respondent No. 2 filed counter-affidavit, wherein he has, inter alia, averred that an extent of Acs.149.00 of land in Surampalli Village was

assigned to 31 persons in the year 2002; that the husband of the petitioner is one among them; that on the representation made by the villagers,

during the Janmabhoomi programme, that the assignees have not cultivated the land in Survey No. 449 of Surampalli Village, notices were issued

to the assignees on 13.6.2002 by the then Tahsildar, Sircilla Mandal, to show-cause why the assigned land shall not be resumed to the

Government for violation of the assignment conditions; that while some of the notices were served on the assignees, some notices were affixed on

the notice board of Surampalli Gram Panchayat on 15.6.2002; and that as the assignees failed to submit their explanation within the stipulated time,

the Tahsildar, Sircilla has issued proceedings, vide Proc. No. B/1907/2002, dated 15.7.2002, resuming the land to the Government. It is further

averred that the said land was allotted to Sircilla Urban House Site Colony in continuation of the Textile Park.

4. On the above-noted pleadings, respondent No. 2 has submitted that as the order of resumption has attained finality, the petitioner is not entitled

to either restoration or allotment of alternative land.

5. Respondent No. 2, who is directed to be present along with the record, has produced the record today.

6. A perusal of the record shows that show-cause notice bearing No. B/1907/2002, dated 13.6.2002, was addressed to one Jakku

Lakshminarsaiah, S/o. Bhoomaiah and 30 others. The enclosure to the show-cause notice contains the name of the petitioner's husband at Serial

No. 11. On the reverse of the copy of the show-cause notice, the signatures/thumb impressions of 11 persons are subscribed/affixed, evidently,

showing that those 11 persons have received the show-cause notice. In addition to the same, it is written at the bottom on the reverse of the copy

of the show-cause notice that a copy of the show-cause notice was affixed on the notice board of Sircilla Gram Panchayat. The record also

contains Proceedings No. B/1907/2002, dated 15.7.2002, of the then Mandal Revenue Officer (Tahsildar), Sircilla, whereunder the land assigned

to 31 persons was resumed to the custody of the Government on the ground that the assignees have failed to develop the land and bring it under

cultivation till date and thereby, they have violated Condition No. VI(iii) of G.O. Ms. No. 1406, dated 25.7.1958.

7. From the above-noted proceedings contained in the record produced by respondent No. 2, it is evident that the land assigned to the husband of

the petitioner was resumed on the purported ground that the assignee failed to develop the land and bring the same under cultivation. The further

fact, however, remains that neither the show-cause notice nor the resumption order was served on the petitioner as, by that time the original

assignee (the husband of the petitioner) has died. However, the resumption order has not been questioned so far by the petitioner.

8. In the face of the above-mentioned facts, this Court is of the opinion that it is neither appropriate nor desirable to direct restoration of the land to

the petitioner at this length of time.

9. Sri J. Sreenivasa Rao, the learned Counsel for the petitioner, submitted that the petitioner's husband was a freedom fighter, which fact was not

disputed by the respondents, and that his widow cannot be left in the lurch by denying the assigned land to her purportedly on the ground of

resumption without notice to her.

10. The fact that the petitioner's husband was a freedom fighter is not in dispute. As per the Government policy, every freedom fighter is entitled to

assignment of agricultural land for his sustenance. The petitioner's husband was assigned an extent of Acs.5.00 of land along with various other

common villagers. If the status of the petitioner's husband is not in dispute, I do not find any reason why the respondents shall not consider

assignment of alternative agricultural land to the petitioner in view of the Government policy providing for such assignment. Therefore, de hors, the

assignment of the land admeasuring Acs.5.00 to the petitioner's husband and its purported restoration, in the facts and circumstances of this case, I

consider that the petitioner's request for assignment of an extent of Acs.5.00 of agricultural land anywhere in Sircilla Mandal is reasonable.

Accordingly, the petitioner is permitted to make a formal application in this regard to respondent No. 2. On receipt of such application, respondent

No. 2 shall consider the same and if he is satisfied that the petitioner's husband was a freedom fighter, he shall ensure that agricultural land

admeasuring Acs.5.00 belonging to the Government in Sircilla Mandal is identified and assigned to the petitioner within a period of three months

from the date of making such application.

11. Subject to the above observations and directions, the writ petition is disposed of.

12. Sri H. Arun Kumar, In-charge District Collector, Karimnagar, has filed an additional affidavit expressing regrets for certain inappropriate

expressions in the counter-affidavit. He has also tendered unconditional apology for the same. The additional affidavit is accepted and further

action is dropped. As a sequel to disposal of the writ petition, WPMP No. 39201 of 2013 filed by the petitioner for interim relief is disposed of as

infructuous.