

M.R. Appa Rao and another Vs Director of Settlements, Govt. of A.P. and others

Court: Andhra Pradesh High Court

Date of Decision: Nov. 4, 1998

Acts Referred: Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 " Section 39, 39(1), 39(7)

Citation: (1998) 6 ALD 777 : (1998) 6 ALT 377

Hon'ble Judges: Umesh Chandra Banerjee, C.J; P. Ramakrishnam Raju, J

Bench: Division Bench

Advocate: Mr. K. Subrahmanya Reddy, for the Appellant; Government Pleader for Revenue, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

Umesh Chandra Banerjee, C.J.

The Zamin Estate of Vuyyur I and II and Mederu Estate were notified together as one group by mistake

and were taken over on 7-10-1950 under the provisions of the A.P. (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948

(hereinafter referred to as "the Act"), and final compensation was determined on 20-6-1961 making some interim payments meanwhile. After

realizing the mistake, the Government renotified Mederu Zamin Estate separately on 1-10-1963 and final compensation was also determined on

21-11-1964. So also compensation was separately determined for Vuyyur Estate on 5-4-1966. As per the Act, till the compensation is

determined and deposited, interim payments have to be made. Accordingly, the Director of Settlements in his reference RC A3-25833/66 dated

16-8-1966 determined that a net amount of Rs.5,76,864-11 towards compensation, Rs.68,297-70 by way of interim payment, and Rs. 5,08,5

66-41 as interest payable to the landholders of Vuyyur Estate, and an amount of Rs. 1,00,734-91, the break-up of which is Rs.44,022-00

towards compensation, Rs.45,385-64 towards interim payment and Rs.1 1,327-27 towards interest, was determined as payable to the land-

holders of Mederu Estate in accordance with G.O. Ms. No.645, dated 28-5-66. The Government accordingly issued G.O. Ms. No.1155, dated

41-10-1966. by which deficit amount of Rs.4,80,200-00 was sanctioned for payment.

2. As the amounts mentioned above were not deposited, the petitioners filed WP No.3293 of 1975 and WP No.3294 of 1975. The High Court

allowed those writ petitions on 7-6-1977 following the judgments in WP Nos.4709 of 1970 and 2038 of 1973, which relate to Venkatagiri Zamin

Estate, Nellore District, to the effect that the Amendment (Act 1 of 1973) to A.P. (A.A.) Estates (Abolition and Conversion into Ryotwari) Act,

1948 was held to be prospective only and the amount accrued to the landholder, from the date of notification till the date of Ordinance of 1970

can not be invalidated by the amendment Act. Since the amounts were not paid, the petitioners again filed WP No. 730 of 1978, which was

allowed on 28-3-1978, and a month's time was granted for payment.

3. The Commissioner of Survey, Settlements and Land Records by his proceedings dated 8-10-1980 directed the Director of Settlements to

arrange payment as per G.O. Ms. Nos.645 and 1155 referred to above. However, the Director of Settlements, instead of implementing the G.Os.

by paying the compensation, asked the Commissioner for clarification. The Commissioner of Survey, Settlements and Land Records, once again

reiterated his earlier stand on 29-4-1981 that Estate holders are entitled to full basic annual sum in terms of G.O. Ms. No.645. But the

Government decided not to pay the amount . due even though the petitioners waited for five years. Meanwhile, the Supreme Court reversed the

judgment of the High Court in Venkatagiri Estate's case on a different issue on 6-2-1986. Taking advantage of the said development, the

Government issued Memo No.609/J2/81-27 dated 3-7-1986 stating that since the judgment of the High Court in Venkatagiri Zamin Estate matter

was reversed by the Supreme Court, on which the writ petitions filed by the land holders of Vuyyur and Mederu Estates were allowed, the

question of payment to the petitioners does not arise, as they cannot contend that the decision of UK Supreme Court cannot apply to them merely

because appeals were not filed against the judgement in their writ petitions. Therefore, the petitioners are once again constrained to file the above

writ petition for a mandamus directing the respondents to implement the order of the Commissioner of Survey, Settlements and Land Records,

dated 8-10-1980 and accordingly pay the amounts due to the petitioners, which is opposed by the Government of Andhra Pradesh and other

respondents.

4. In the conspectus of facts, as interesting question falls for consideration in this appeal - to wit the effect of a judgment of the Supreme Court

when the matter stands otherwise finalised and there exists an accrued right. In State of Punjab Vs. Joginder Singh, , the Supreme Court in para 9

of the judgement in no uncertain terms observed that "finality of the orders passed in three writ petitions before the Punjab High Court ought not to

be disturbed and that the three successful petitioners would be entitled to retain the advantages which they had secured by the decision in their

favour not being challenged by an appeal being filed". The Supreme Court observed that "the above, however, would not help the present

respondent who would be bound by the judgement of the Supreme Court in the appeal, and so far as the general law is concerned as applicable to

everyone other than the three writ petitioners, who are entitled to the benefit of the decisions in their favour having attained finality". Incidentally, it

is to be noted that the State of Punjab preferred an appeal against an order of the Punjab High Court only in regard to one writ petitioner who was

successful before the High Court, and it has chosen not to prefer any appeal against the other three writ petitioners in whose matters common

judgment was pronounced. But by reason of the fact that appeal was restricted to one writ petition, the observations of the Supreme Court as is

available from the judgment is to the extent indicated above.

5. In the facts and circumstances of the matter under consideration before this Court, it appears that the Commissioner of Survey, Settlements and

Land Records, Hyderabad, as early as 8-10-1980 passed an order directing the Director of Settlements to act in terms of G.O. Ms. No.645,

dated 28-5-1966 and G.O. Ms. No.1155, dated 4-10-1966 pertaining to payment of compensation and interim compensation in respect of

Mederu Zamin Estate and Vuyyur Estate I and II, The Commissioner in his order dated 8-10-1980 records the following :

In the Government Memo cited (Government Memo No.1082/J2/80-2, dated 11-9-1980) the Commissioner was requested to take action to

implement the decision given in WP Nos.3293 and 3294 of 1975 delivered on 17-6-1977 by the High Court regarding payments to be made to

the land-holders of Vuyyur I and II Zamin Estates and Mederu Zamin Estate in accordance with law laid down in WP No. 4709 of 1970 dated

22-9-1977 and WP No-2038 of 1973 dated 8-4-1975, as the Government has not taken the matter in appeal to the Supreme Court and as the

orders of the High Court had become final".

6. It is on this background, the Commissioner of Survey, Settlements and Land Records passed the order directing the Director of Settlements to

take steps in accordance with the above noted memo. The payment, however, was not made in terms therewith, and as a matter of fact, certain

clarifications were asked for by the Director of Settlements, and the Commissioner again by a letter dated 29-4-1981 clarified the situation and

informed the Secretary to the Government of Andhra Pradesh (Revenue Department) the following:

In conclusion, I would like to state that the Government may issue specific sanction for Rs.7,51,463-55 being the amount payable, excluding the

interest upto the date of Ordinance. This is on the basis that the proposals of Director of Settlements in 1966 are approved in toto in the light of the

interpretations given in terms of G.O. Ms. No. 645.....

No further steps were taken for a period of about five years, and it is only on 3-7-1986 the State Government directed the Commissioner of

Survey, Settlements and Land Records to act in accordance with the decision of the Supreme Court, which in fact did set aside the judgment of

this Court in Venkatagiri's case. The Secretary to the Government informed the Commissioner that the law declared by the Supreme Court is

binding on the land-holders of Vuyyuru and Mederu Estate whether they are parties to the judgment or not.

7. While it is true that no exception can be taken as a principle of law, irrespective of the factum of a person being a party to an order or not, the

law declared by the Supreme Court has a binding effect, and we need not dilate on this score since the law is well settled in that regard. But the

fact remains that a vested right as appears from the order of the Commissioner dated 8-10-1980 is now being sought to be taken away by an

administrative order. Section 39 of the A.P. (A.A.) Estates Abolition Act, 1948 in particular subsection (7) thereof categorically lays down that no

order passed by the Director under subsection (1) shall be liable to be cancelled or modified except by the Board of Revenue or to be questioned

in any Court of law. Admittedly, on the contextual facts, it appears that there is no order passed by the Board of Revenue and neither the matter

was placed before the Board of Revenue. Therefore, the order passed by the Commissioner has attained finality in the matter, and it is on this

score strenuous submissions have been made that immediately on passing of the order by the Commissioner, a right accrues and stands vested on

to the writ petitioners. The learned single Judge, however, in a longish judgment observed that by reason of the judgment of the Supreme Court,

question of right accrued, does not and cannot arise. We are, however, unable to record our concurrence with the findings and observations of the

learned single Judge. A right stands vested by reason of the provisions of the statute. The concept of statutory finality, cannot possibly be whittled

down or the Court cannot lend a deaf ear and a blind eye in regard thereto. Statute has a sanctity of its own, and if an order is said to be final in

terms of the provisions of the statute, as noted above, question of there being any other interpretation as regards its finality, does not and cannot

arise.

8. On the second count, be it noted that entitlement of the petitioners is by reason of compensation for acquisition of land. There is a deprivation.

Some payments have been made, and some have not, and any by reason whereof, proceedings were initiated and eventually culminated in the

order of the commissioner, who in no uncertain terms directed the Director of Settlements to act in the light of G.O. Ms. No.645 and 1155, as

noted above. Both these two governmental orders authorise the petitioners to obtain wither payments, and the petitioners by reason of non-

compliance of the statutory requirements, did apply to the Court for issuance of a writ of mandamus commanding the respondent-authorities to act

in terms of the order of the Commissioner of Survey, Settlements and Land Records, which stands negated by the learned single Judge. As noted

above, the entitlement relates back to a date prior to 1980 - In 1980, the Commissioner being the highest in the hierarchy in terms of the statute,

passed an order directing payment in terms of the Government notification and by reason of the decision of the High Court, but no step was taken

for a period of six years. The Government ought to act with utmost promptitude, specially in regard to payment of compensation. As a matter of

fact, contraction not only belittles the expectation of the people of a governmental working but the same runs counter to all norms of law, specially

when the Government wishes to avail of a plea after six years that by reason of a decision of the Supreme Court, question of payment does not

and cannot arise. This is more so by reason of the fact that the petitioners are not parties to the writ petition in this Court and neither before the

Supreme Court and refusal to pay does not and cannot arise. As a matter of fact, the Government ought not to be allowed to take advantage of its

own laches.

9. In view of the settled law as adumbrated by the apex Court, referred to above, we have no hesitation to hold that the Government cannot refuse

to implement the directions contained in judgments in V.P. Nos.3293 and 3294 of 1975 dated 17-6-1977 and W.P. No.730 of 1978 dated 28-3-

1978. Accordingly, the order impugned in this writ appeal is set aside and the writ appeal is allowed. Consequently, the writ petition is allowed as

prayed for. No order as to costs.