

## Land Acquisition Officer-cum-Revenue Divisional Officer, Chevella Division, Hyd. and Others Vs Mekala Pandu and Others

**Court:** Andhra Pradesh High Court

**Date of Decision:** July 24, 2002

**Acts Referred:** Land Acquisition Act, 1894 " Section 23

**Citation:** (2002) 5 ALD 23 : (2002) 5 ALT 131 : (2004) 2 APLJ 108

**Hon'ble Judges:** Ar. Lakshmanan, C.J; Ramesh Madhav Bapat, J; Ghulam Mohammed, J; G. Rohini, J; B. Sudershan Reddy, J

**Bench:** Full Bench

**Advocate:** Government Pleader, for the Appellant; M. Laxman, for the Respondent

### Judgement

Ar. Lakshmanan, C.J.

A Division Bench of this Court by an order dated 25-3-2002 directed the Registry to place the matter before the

Chief Justice forreferring the issue relating to payment of compensation to the assignees of Government lands in the light of the Larger Bench

decision reported in Kolli Purushotham Chowdary Vs. Balaji Finance Corporation and Another, , and the Full Bench decision reported in State of

Andhra Pradesh and Another Vs. P. Peda Chinnayya and Others, , so that the controversy in this regard could be put to rest.

2. A Full Bench of this Court in the decision reported in P.Peda Chinnayya"s case, (supra) held as follows:

Where the Government resorts to the provisions of the Act for acquisition of the patta lands without resorting to the terms of the grant for

resumption, it is liable to pay compensation under the Act, but such compensation will be only the market value of the interest of the owner or the

assignee of the land, subject to the clog. In such cases of acquisition, the claimant would also be entitled to consequential reliefs, such as those of

solatium and interest, etc., under the Act. In a case where the patta lands are resumed by the Government, the assignees cannot claim

compensation under the Act, but can claim compensation equal to the market value of their interest in the land, subject to the clog. In such cases,

no solatium may be payable but interest may be claimed on the amount of compensation from the date of dispossession and till the date of payment

of compensation. In a case where the assignees are dispossessed from their patta lands without resuming the lands in terms of the grant and/or

initiation of proceedings under the Act, the Government may be directed to initiate proceedings under the Act and to pay compensation under the

Act as indicated.

3. The view expressed by the Full Bench was not accepted by the Larger Bench in the case reported in Bondapalli Sanyasi, (supra). The Larger

Bench held that the decision of the Full Bench in P. Peda Chinnayya, (supra), holding that assignee can claim compensation equal to market value

of his interest in the land with interest thereon from the date of dispossession even if the Government resumes assigned land by resorting to terms of

grant, is not good law. S.B. Sinha C.J., Bilal Nazki, J and Goda Raghuram, J., concurred and overruled the decision of the Full Bench in P. Peda

Chinnayya, (supra). On the other hand, Martial B. Naik, J., took a different view which was accepted by B. Sudershan Reddy, J., B. Sudershan

Reddy, J., stated that he agreed with the conclusions reached in the judgment prepared by Motilal B. Naik, J. and accordingly dismissed CMP

No. 19044 of 2001 and consequently CMP SR.No.70327 of 2001 also stood dismissed. He also stated that the correctness of the law laid down

by the Full Bench in P. Peda Chinnayya, (supra), need not be gone into for the present. He directed the appeal in A.S.No. 1266 of 1987 arising

out of the judgment and decree in OS No. 49 of 1984 be listed before the appropriate Bench for hearing and disposal in accordance with law.

4. In view of the majority opinion, CMP SR Nos. 70327 and 70329 of 2001 and CMP No. 19044 of 2001 in AS No.2541 of 1986, were

dismissed and consequently AS No.697 of 1985 was dismissed and ASNo. 1266 of 1987 was remitted to the learned single Judge for

consideration of the same in the light of the majority opinion.

5. Motilal B. Naik, J., sitting with G. Rohini, J., while dealing with Writ Appeal No. 170 of 2002, opined thus:

Though the assignees are entitled to get benefits on the basis of the ratio laid down by the Full Bench of this Court in the decision cited (supra), in

view of the later decision of the Larger Bench of this Court cited (supra), such benefit is denied to them inspite of the fact that the larger Bench in

the decision (supra) has not examined the correctness of the view of the Full Bench decision cited (supra) in correct perspective having regard to

the facts and circumstances of each case and in the light of the implications arising out of various G.Os. issued by the Government from time to time

on the question of payment of compensation to the assignees on resumption of lands by the Government.

It is in this background, we are of the considered view, the decision of the larger Bench in the decision cited (supra), requires reconsideration in the

light of the State's obligation arising out of Chapter-IV of the Constitution of India and in the light of the G.Os. issued by the Government from

time to time meeting the contingency of payment of compensation in case of resumption of assigned lands. We, therefore, direct the Registry to

place the matter before the Hon"ble the Chief Justice for referring this issue relating to payment of compensation to the assignees of Government

lands in the light of the larger Bench decision and full Bench decision cited (supra) respectively to a larger Bench for its decision, at an early date so

that the controversy in this regard could be put to rest.

6. That is how this matter is now placed before this Larger Bench after obtaining orders from the Chief Justice.

7. When the-matter-was-taken up for hearing by this Larger Bench, the learned Government Pleader invited our attention to the following

decisions:

1. Jai Kaur and Others Vs. Sher Singh and Others, .

2. Tribhuvandas Purshottamdas Thakur Vs. Ratilal Motilal Patel, .

3. Dhanki Mahajan Vs. Rana Chandubha Wakhatsing and Others, .

4. Ayyaswami Gounder and Others Vs. Munnuswamy Gounder and Others, .

5. Sundarjas Kanyalal Bhathija and others Vs. The Collector, Thane, Maharashtra and others, .

6. N.S. Giri Vs. The Corporation of City of Mangalore and Others, .

7. Coir Board Ernakulam Kerala State and Another Vs. Indira Devi P.S. and Others, .

8. Bharat Petroleum Corporation Ltd. Vs. Mumbai Shramik Sangha and Others, .

9. Pradip Chandra Parija and Others Vs. Pramod Chandra Patnaik and Others, .

10. District Manager, APSRTC v. K. Sivaji (2001) 2 SCC 135.

11. Dr. Vijay Laxmi Sadho Vs. Jagdish, .

12. Government of Andhra Pradesh and Another Vs. B. Satyanarayana Rao (Dead) by Lrs. and Others, .

8. The learned Government Pleader submitted that the Judges of the Division Bench are bound by the judgment of the Larger Bench to which one

of them (Motilal B. Naik, J.) was a Member and that if the Division Bench disagrees with the decision of the Bench of coordinate jurisdiction, the

matter should have been referred to a Larger Bench. The other judgments cited by the learned Government Pleader are also to the same effect.

9. In this context, we may beneficially notice the judgment of the Hon"bie Supreme Court reported in Pradip Chandra Parija"s case (supra). In that

case, a Bench of two learned Judges has doubted the correctness of a decision of a Bench of three learned Judges. They have, therefore, referred

the matter directly to a Bench of five learned Judges. The Bench of five learned Judges has observed that judicial discipline and propriety demand

that a Bench of two learned Judges should follow the decision of a Bench of three learned Judges. But if a Bench of two learned Judges concludes

that an earlier decision of a Bench of three learned Judges is so very incorrect that in no circumstances can it be followed, the proper course for it

to adopt is to refer the matter before it to a Bench of three learned Judges setting out the reasons why it could not agree with the earlier judgment

of a Bench of three learned Judges. If, then, the Bench of three learned Judges also comes to the conclusion that the earlier judgment of a Bench of

three learned Judges is not correct, reference to a Bench of five learned Judges is justified.

10. This is a matter of very great public importance. This Bench is, therefore, inclined to hear the views of the members of Bar apart from hearing

the learned Counsel for the parties. The Registry is directed to make a request to the President, High Court Bar Association to nominate an

advocate to argue the matter and assist the Court. In this regard we also request Sri Challa Seetharamaiah, learned senior Counsel, to assist the

Court in order to set the controversy at rest and also to pronounce an authoritative judgment. We request the learned Advocate-General also to

assist the Court. The Registry is directed to supply one set of material papers in the writ appeal to the learned senior Counsel Sri Challa

Seetharamaiah and to the President, High Court Bar Association.

11. In the instant case, already an opinion was expressed by a Larger Bench of five Judges in the case reported in Bondapalli Sanyasi's case

(supra). This Larger Bench, therefore, feels that the matter be placed before the Chief Justice to constitute a Larger Bench of seven Judges to

resolve the important issue in public interest.