

MOLUGU MAHIPAL REDDY AND ORS.

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v.

M PRADEEP KUMAR AND ORS.

(Civil Appeal Nos.8749-8750 of 2015)

OCTOBER 16, 2015

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[T.S. THAKUR AND KURIAN JOSEPH, JJ.]

Land Acquisition Act, 1894: Writ petition filed in public interest challenging the action of competent authorities in registering the land – Allowed by High Court – Challenged by appellants on the ground that the said parcel of land was not government land and therefore High Court erred in interfering in exercise of its public interest jurisdiction to protect the so called public interest – Plea of appellants that they were not impleaded as parties to the writ petition filed by public interest litigant who had been set up by the rival claimants to the land only to blackmail or pressurize them – Held: Several questions arose for determination which ought to have been but were not been examined by High Court – Matter remitted back to High Court for fresh consideration.

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Allowing the appeals and remitting the matter to High Court, the Court

HELD:1. Several questions which arose for determination before this Court have not been examined by the High Court. For instance the question, whether the writ petition was *bona fide* and in public interest, was not examined by the High Court. The averments made in the writ petition showed that the petitioner was himself interested in buying some land when he discovered the unauthorised occupation of government lands by third parties. This aspect needed to be examined and verified. Secondly, the question whether land underlying Survey

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A Nos.215 and 222 was Government land or privately owned land, was a matter on which any finding by the High Court was bound to adversely affect and prejudice the appellants. The appellants were not, however, arrayed as parties either in PIL No.130 of 2014 or in the

B earlier rounds of litigation, even when they claimed title to the property in question on the basis of properly registered instruments of sale in their favour. The writ petitioner appears to have withheld deliberately or

C otherwise that information from the Court and secured an order from the High Court behind the back of the appellants. Thirdly, the question whether a notification, issued by the Government under Section 48 of the Act as early as in the year 1972, could be assailed by a public

D activist years after the same was issued, was also required to be considered by the High Court. In regard to the transfer of possession, the question whether appellants/owners of the land were dispossessed or their predecessors had been dispossessed, as

E suggested by the Government, or whether the possession was only on papers which was returned by the Government in terms of proceedings of the Collector dated 24th July, 2004 also required scrutiny and determination by the High Court. Whether or not there

F was any award made or any payment made to the earlier land-owners and whether or not the notification under Section 17 was validly issued and whether the same was preceded by a notice under Section 9 of the Act, are also matters that need to be examined by the High Court. So

G also the question, whether Section 11-A of the Act has any application to cases where land is vested in the Government under Section 17(1) of the Act, needs to be addressed. Several issues were raised that needed to be suitably and articulately formulated and addressed

H by the High Court before it can issue any direction on

the subject. Inasmuch as the High Court acted in somewhat hasty manner, it has committed a mistake that not only resulted in miscarriage of justice but rendered the order unsustainable. [Paras 12, 13] [623-E-H; 624-A-H]

M/s. Jethumull Bhojraj v. State of Bihar and others 1972 (3) SCR 193 : (1972) 1 SCC 714; *Delhi Airtech Services Private Ltd. and Another v. State of Uttar Pradesh and Another* 2012 (12) SCR 191 : (2011) 9 SCC 354; *V. Chandrasekaran and Anr. v. Administrative Officer and Ors.* 2012 (10) SCR 603: (2012) 12 SCC 133 – referred to.

Case Law Reference

1972 (3) SCR 193	referred to.	Para 10
2012 (12) SCR 191	referred to.	Para 10
2012 (10) SCR 603	referred to.	Para 11

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 8749-8750 of 2015.

Form the Judgment and Order dated 11.08.2014 of the High Court of Judicature at Hyderabad for the state of Telangana and the State of Andhra Pradesh in Rev. WPMP. No. 257 of 2014 in PIL No. 130 of 2014.

WITH

C.A. Nos. 8751-8752, 8753-8754, 8755-8756 and 8757-8758 of 2015.

M. N. Rao, Sushil Kumar Jain, B. Ramana Murthy, A. Ramesh, P. Srinivasa Reddy, Syed Ahmad Naqvi, Shilpi Gupta, G. Madhavi, Promila, Annam D. N. Rao, Annam

A Venkatesh, Sudipto Sircar, Neelam Jain, Vaishali, Ankita Chadha for the Appellants.

Harin P. Raval, Vishwanath Shetty, Praveen Kumar Singh, Bal Krishan Sharma, Md. Ziauddin Ahmad, Anand Mukherjee,
B Nipun Saxena, Rajiv Shankar Dvivedi, Punit Dutt Tyagi, P. Venkat Reddy, Prashant Kr. Tyagi (for Venkat Palwai Law Associates) for the Respondents.

The Judgment of the Court was delivered by

C **T. S. THAKUR, J.** 1. Leave granted.

2. These appeals arise out of common judgments and orders dated 22nd May, 2014 and 11th August, 2014 passed by the High Court of Judicature at Hyderabad in PIL No.130 of 2014 and Review W.P.M.P. No.257 of 2014. By order dated
D 22nd May, 2014, a Division Bench of the High Court has allowed PIL No.130 of 2014 with a direction to the District Collector, the Revenue Divisional Officer and the Tahsildar arrayed as
E respondents no.1 to 3 in the said petition to implement the orders passed by the High Court in the earlier proceedings within a period of eight weeks from the date of the receipt of the copy of the said order. The operative portion of the order passed by the High Court reads as under:

F *"14. In view of the above orders of this Court, the writ petitioner rightly contended that the action of the 5th Respondent-Sub Registrar, Kapra Sub Registrar Office, Hyderabad, in registering house/land in Sy. No.215 of
G Kapra Village, Keesar Mandal, Rangareddy District, under registered document No.1773/2014 dated 19.5.2014, is illegal as it is causing illegal injury to the innocent third parties, as such the said action cannot be appreciated. As rightly stated by the petitioner in view
H of the legal bar against the unofficial Respondent No.10*

to 14 to establish their rights over the said land as earlier held by this Court, the unofficial Respondents are disposing the subject lands in Sy. No.215, 222, 244 and 246 to the various third parties without establishing their rights over the said lands or the innocent purchasers who have been affected and for 7th Respondent to initiate appropriate action in accordance with law against the persons who are responsible for execution and registration of the said documents.

15. For the foregoing reasons, the official Respondent 1 to 3 are directed to implement the orders of this Court referred to above, within a period of eight weeks from the date of receipt of a copy of this order

16. The public interest litigation is accordingly disposed of. No costs. Miscellaneous petitions pending, if any, shall stand closed."

3. In civil appeals arising out of SLP (C) Nos.29822-29823 of 2014 and SLP (C) Nos.559-560 of 2015, the appellants have assailed the order, aforementioned, to the extent the same directs action by the officers, aforementioned, in regard to lands situate in Survey Nos.244 and 246 of Village Kapra, Keesara Mandal, Ranga Reddy District. It is contended by Mr. M.N. Rao, learned senior counsel appearing for the appellants in the said appeals, that the High Court had erroneously brought in Survey Nos.244 and 246 into controversy even when there were neither any acquisition proceedings *qua* the said survey numbers at any earlier point of time nor was there any question of title to be decided *qua* the said land. The High Court, it was argued, without doing so much as verifying the true facts concerning the two survey numbers, had included them in the direction issued by it which was not only erroneous but wholly unjustified. It was urged that land situate in Survey Nos.244 and 246 of the Village Kapra, Keesara Mandal in the Ranga

A Reddy District, was private property with which the State Government has no concern whatsoever to call for any intervention by the High Court in exercise of its public interest jurisdiction.

B 4. On behalf of the writ petitioner-respondent no.1, it was submitted by Mr. Harin P. Raval, learned senior counsel, that PIL No.130 of 2014 was meant to protect public property situate in Survey Nos.215 and 222 only and that writ petitioners had no objection in case the direction of the High Court concerning
C Survey Nos.244 and 246 was set aside.

5. In that view, therefore, we do not consider it necessary to go any deeper into the matter insofar as Survey Nos.244 and 246 are concerned which survey numbers even according
D to the writ petitioner-respondent no.1 herein are not owned by the State Government and, therefore, present no public interest dimension to be investigated by the High Court or by this court in these matters. Civil appeals arising out of SLP(C)
E Nos.29822-29823 of 2014 and SLP(C) Nos.559-560 of 2015 challenging the order passed by the High Court, limited to the inclusion of Survey Nos.244 and 246, are therefore allowed and the direction issued by the High Court in regard to the above two survey numbers set aside.

F 6. That leaves us with the question whether the High Court was justified in issuing the direction extracted above concerning Survey Nos.215 and 222 of Village Kapra, Keesara Mandal, Ranga Reddy District. The case of the appellants in these civil
G appeals *qua* the said survey numbers is that the same were initially notified for acquisition in terms of a notification dated 17th November, 1966 under Section 4 of the Land Acquisition Act, 1894. Section 6 declaration was issued *qua* the said lands on 28th November, 1966. In the final Award dated 29th September, 1969 made by the Collector, land underlying
H several survey numbers including Survey Nos.215 and 222

was deleted. Relevant portion of the Award made by the Collector was in the following terms: A

"... .. The possession of the lands notified was taken over from the land owners on two occasions, viz., 4.1.1967 and 13.3.1967. Subsequently, the Director of Industries, through his Lr.No.1144/DII(1)/66, dt. 28.2.1968 requested to denotify certain lands due to paucity of funds. Consequently, the following lands are now under denotification, the details of which are furnished below:

<u>Sy.No.</u>	<u>Extent</u>
215	11.12
216	10.30
217	19.31
218	16.03
219	6.20
222	16.10
223/15	8.03
227	8.27
228	5.30
229	5.05
Total	----- Ac.108.11 Gts -----

A 7. It is also argued by learned counsel for the appellants
 that a formal notification under Section 48 of the Land
 Acquisition Act, 1894 was issued by the Government on 22nd
 B May, 1972 by which land admeasuring 11.12 acres situate in
 Survey Nos.215 besides 16.10 acres situate in Survey No.222
 were denotified as the same was no longer required by the
 Government. The withdrawal notification issued by the
 Government was as under:

C *"WITHDRAWAL FROM ACQUISITION OF LANDS*

(Memo No.703/11/21 Industries and Commerce May
 22, 1972)

D *The following lands specified in the schedule below,*
which have been notified for acquisition for Industrial
Development Area at Khapra Village, Hyderabad
district, Medchal Taluk, draft notification under Section
4(1) of the Land Acquisition Act as approved in G.O. Rt.
No.468, Industries, dated 10th November, 1966 and
 E *published in the Andhra Pradesh Gazette No.310 Part*
1 Extraordinary, dated 17th November, 1966 and
declare for acquisition through G.O. Rt. No.496,
Industries, dated 28th November, 1966 under Section
6 of the Land Acquisition Act and published in Andhra
 F *Pradesh Gazette No.328, Part 1, Extraordinary, dated*
1st December, 1966 are no longer required and thereof,
the Government of Andhra Pradesh hereby withdraw the
lands as detailed below the acquisition under Section
48(1) of the Land Acquisition Act, 1894.

G *Hyderabad District, Medchal Taluk, Kapara Village.*

Dry, Patta S.No.215, Owner: Mulugu Papi Reddy,
Mulugu Ranga Reddy, Yella Reddy and Venkata
 H *Reddy 11.12 acres.*

xxx . xxx xxx A

*Dry. Patta S.No.222, Owners same as in S.No.215,
16.10 acres.*

xxx . xxx xxx B

Total = 108.11 acres.

P.S. KRISHNAN,

DEPUTY SECRETARY TO GOVERNMENT" C

8. It was argued that in the light of the de-notification the possession of aforementioned two survey numbers was delivered back to the land-owners by the Joint Collector of Ranga Reddy District in terms of proceedings dated 24th July, 2004. The relevant portion whereof reads as under: D

"ORDER

Perused the material papers submitted by the Mandal Revenue Officer, Keesara and also the respondents.....Therefore in view of the said facts and circumstances requested to close the proceedings. E

Further, as per the Mandal Revenue Officer, Keesara Lr. No.B/534/2001, dated 23.05.2001, it is seen that through Lr. No.E1/7211/1997, dated 30.06.1999 the Collector, Ranga Reddy District reported to he government that the following lands are withdrawn as per the request of the Director of Industries through Lr. No.1144/D/11(1)/68, dated 28.02.1968 withdrawn notification u/s 48(1) of Land Acquisition Act was approved by the Government vide Memo No.703/F-11/72-1 Industries and Commerce Department, Dated: 22.05.1972 and the same was published in A.P. Gazette No.139 Part 1 Extraordinary, Dated: 27.05.1972 and F G H

A *the Special Deputy Collector Land Acquisition (Industries) requested the Director of Industries to release the following lands to the Pattadars concerned:*

	Survey No.	Extent
B	215	11.12
	216	10.30
	217	19.31
C	218	16.03
	219	6.20
	222	16.10
D	223/15	8.03
	227	8.27
	228	5.30
E	229	5.05

F *In view of the above facts and circumstances it is found that the report of the Mandal Revenue Officer, Keesara, Dated: 09.02.2001 and 30.03.2001 have been submitted without thoroughly exploring the realities and as such are held to be devoid of merits and as such are liable to be dismissed and the same is accordingly dismissed.*

G *Typed to dictation corrected and pronounced by me in the open court on this the 24th Day of July, 2004.*

H *Joint Collector
Ranga Reddy District"*

9. It is urged that with the deletion of the land from acquisition in terms of the above notification and the delivery of the possession thereof to the land-owners, the State ceased to have any title over the land in dispute which vested in the owners absolutely and could be dealt with by them according to their volition. It was contended that no award was made in regard to the land in question by the Collector at any point of time nor was any compensation paid to either the erstwhile land-owners or the appellants who are *bona fide* purchasers of the same for consideration. There was, therefore, no question of the said parcels of land being treated as Government land nor was there any room for the High Court to interfere in exercise of its public interest jurisdiction to protect the so called public interest. It is also urged that the appellants had not been impleaded as parties to the writ petition filed by the public interest litigant who had been set up by the rival claimants to the land, only to blackmail or pressurize the appellants herein. It was contended that the public interest petitioner was only a name-lender and had no *locus standi* to maintain the petition.

10. It was also contended that the alleged vesting of land in the Government, based on earlier judgments of the High Court in Writ Petitions No.8316 of 2008, 602 of 2001 and Writ Appeal No.187 of 2007 arising out of Writ Petition No.8404 of 2005, was also totally inconsequential *vis-a-vis* the appellants who were not impleaded as parties to those proceedings. Any judgments delivered in those writ petitions, applications for direction or writ appeals, were therefore of little consequence. Inasmuch as the High Court had relied upon the earlier orders in the proceedings instituted by either party qua the survey numbers, aforementioned, without appreciating that the appellants were at no stage impleaded as parties to those proceedings nor given an opportunity to defend their title, it committed a mistake that is apparent on the face of the record.

A It is also contended that the *bona fides* of the so called public
activist were also doubtful in the light of certain information
collected under the Right to Information Act that suggested that
the Trust which the writ petitioner was claiming to be running
had been shut down and the piece of land where the same
B was established transferred. It was urged that the High Court
had proceeded on an erroneous assumption that land
underlying Survey Nos.215 and 222 stood validly vested in
the Government and free from all encumbrances. The
appellants were, according to learned counsel for the
C appellants, entitled to question the validity of Notification under
Section 17 of the Act, if only the State Government were to
make any claim against them on the basis thereof. Since the
Government had itself dropped the acquisition proceedings
D by issuing a notification and transferring possession, the
appellants or their predecessors in-title do not have any reason
to do so. It was urged that for a valid notification under Section
17 it was essential that a notice under Section 9(1) of the Act
was issued to the owners concerned which was not issued in
E the instant case according to the appellants. Reliance in
support of that submission was placed upon the decision of
this Court in ***M/s. Jethumull Bhojraj v. State of Bihar and
others (1972) 1 SCC 714***. It was submitted by Mr. Sushil
Kumar Jain, learned senior counsel appearing for the
F appellants, that in ***Delhi Airtech Services Private Ltd. and
Another v. State of Uttar Pradesh and Another (2011) 9
SCC 354***, the question whether Section 11-A applies even to
cases where the land stands vested under Section 17 of the
Act is pending before a Three-judge Bench of this Court.

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11. On behalf of the respondent-writ petitioner it was urged
by Mr. Harin P. Raval that even when there was no award in
regard to the lands situate in Survey Nos.215 and 222, the
vesting was absolute in terms of Section 17(1) of the Act and
H once vested, the Government could not divest itself of land

even if no award is made within the period stipulated under Section 11-A of the Act. Reliance in support of that submission was placed by him on the decision of this Court in **V. Chandrasekaran and Anr. v. Administrative Officer and Ors. (2012) 12 S.C.C. 133**. It is also contended that although there were no directions issued by the High Court in Writ Petition No.8316 of 2008 and Writ Petition No.602 of 2001 yet the findings recorded therein clearly established that the land in question vested in the State Government for all intents and purposes which could not be allowed to be occupied unauthorisedly by the appellants or anyone else. The fact that the appellants herein were not impleaded as parties to the said earlier proceedings was, according to Mr. Raval, of no consequence. It was also urged that the possession of the land having been taken over, Section 48 of the Act was not available to the State Government to divest itself of the land and that the High Court was perfectly justified in holding so in the earlier rounds of litigation.

12. Several questions, in our opinion, arise for our determination which ought to have been but have not been examined by the High Court. For instance, whether the writ petition was *bona fide* and in public interest, has not been examined by the High Court. While, we do not propose to deal with the issue at this stage, the averments made in the writ petition show that the petitioner was himself interested in buying some land when he discovered the unauthorised occupation of government lands by third parties. This aspect needs to be closely examined and verified, in the light of what the appellants have to say in that regard.

13. Secondly, the question whether land underlying Survey Nos.215 and 222 was Government land or privately owned land, was a matter on which any finding by the High Court was bound to adversely affect and prejudice the appellants herein.

A The appellants were not, however, arrayed as parties either in PIL No. 130 of 2014 or in the earlier rounds of litigation even when they claim title to the property in question on the basis of properly registered instruments of sale in their favour. The writ petitioner appears to have withheld deliberately or otherwise

B that information from the Court and secured an order from the High Court behind the back of the appellants. Thirdly, the question whether a notification issued by the Government under Section 48 of the Act as early as in the year 1972 could be assailed by a public activist years after the same was issued,

C is also required to be considered by the High Court. In regard to the transfer of possession, the question whether appellants/ owners of the land were dispossessed or their predecessors had been dispossessed, as suggested by the Government,

D or whether the possession was only on papers which was returned by the Government in terms of proceedings of the Collector dated 24th July, 2004, referred to earlier, also calls for the scrutiny and determination by the High Court. Whether or not there was any award made or any payment made to the

E earlier land-owners and whether or not the notification under Section 17 was validly issued and whether the same was preceded by a notice under Section 9 of the Act, are also matters that need to be examined by the High Court. So also the question whether Section 11-A of the Act has any application

F to cases where land is vested in the Government under Section 17(1) of the Act, needs to be addressed, having regard to the pronouncements of this court to which learned counsel for the parties made a reference. All told, several issues have been raised that need to be suitably and articulately formulated and

G addressed by the High Court before it can issue any direction on the subject. Inasmuch as the High Court has acted in somewhat hasty manner, it has committed a mistake that has not only resulted in miscarriage of justice but rendered the order unsustainable.

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14. In the result, we allow these civil appeals, set aside orders dated 22nd May, 2014 and 11th August, 2014 passed by the High Court of Judicature at Hyderabad in PIL No.130 of 2014 and in Review W.P.M.P. No.257 of 2014 and remit PIL No.130 of 2014 back to the High Court for a fresh disposal in accordance with law, after impleading the appellants herein as parties to the same and giving them an opportunity of being heard in the matter. We make it clear that we shall not be understood to have expressed any final opinion on the contentions urged before us to which we have made brief reference in the body of this order. We have referred to the issues only for the limited purpose of indicating the broad parameters of the scrutiny which the High Court may conduct to determine all the issues that arise for consideration, which we have indicated only by way of illustration without meaning to enumerate them exhaustively. The parties are directed to appear before the High Court on Monday, the 16th November, 2015 for further directions. No costs.

Devika Gujral Appeals allowed & matter remitted back to High Court.