

THE HON'BLE THE ACTING CHIEF JUSTICE C. PRAVEEN KUMAR

AND

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

**WRIT APPEAL Nos.1138 & 1139 of 2018**

**COMMON JUDGMENT:** {Per the Hon'ble the Acting Chief Justice C. Praveen Kumar}

1. Since the issue involved in both the appeals is one and the same, they are heard together and are being disposed of by this common judgment.

2. W.A.Nos.1138 and 1139 of 2018 came to be filed by the State challenging the orders dated 11.12.2017 passed by the learned single Judge of the High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh, allowing W.P.No.11500 of 2017 and W.P.No.37715 of 2017 respectively.

3. The facts in issue are as follows:

One M. Krishna Murthy Naidu, who was an Ex-service man, was granted patta in respect of the subject property viz., Ac.3.00 cents situated in Sy.No.351/1 of Merlapaka village, Yerpedu Mandal, Chittoor District under Ex. servicemen quota vide proceedings dated 28.6.1992. Pattadar pass books and title deeds were also issued to him in respect of the subject property, and he was allowed to sell the subject property after expiry of 10 years from the date of grant of patta, under G.O.Ms.No.1117, dated 11.11.1993. After the death of the original assignee, the subject property devolved upon his daughter-sole legal heir Madhuri, who got mutated her name and also obtained NOC for alienating the

subject property to third parties vide proceedings dated 11.7.2014 from the 2<sup>nd</sup> respondent-District Collector, Chittoor, Chittoor District. Thereafter, she sold the same to the petitioner under registered sale deed dated 7.3.2015. The writ petitioner applied for conversion of the agriculture land into non-agricultural land. While so, a notice dated 27.1.2017 came to be issued to the petitioner calling upon him to be present for hearing on 4.2.2017 to contest the case with regard to proposed cancellation of the original assignment granted in favour of late Krishna Murthy Naidu. Challenging the said notice W.P.No.11500 of 2017 came to be filed. Assailing the inaction of the 4<sup>th</sup> respondent in issuing final orders for conversion of the subject land from agriculture to non-agricultural purposes, W.P.No.37715 of 2017 came to be filed.

4. After hearing both the parties, the learned single Judge allowed both the writ petitions vide the orders impugned, whereunder the notice impugned was quashed, directing the 4<sup>th</sup> respondent to pay costs of Rs.10,000/- to the writ petitioner and to consider the application of the writ petitioner for conversion of agricultural land into non-agricultural purposes, and accord permission to him. Aggrieved by the same, the present appeals came to be filed by the state.

5. The learned Government Pleader for Assignment would contend that since 'no objection certificate' was not granted for selling the subject property to the third parties, and as the NOC obtained by the vendor of the petitioner is fabricated, the Government has every right to take back the subject property.

6. It is the case of the appellants that since no NOC was obtained for selling the subject property, the Government has every right to take back the subject property. It would be relevant to extract the guidelines laid down by the Government of A.P. vide G.O.Ms.No.279, dated 4.7.2016 issued in supersession of the orders issued in G.O.Ms.No.307, Revenue (Assn.I) Department, dated 6.6.2013, which is as under:

- (i) The procedure of issuing 'NOC' shall be dispense with. There shall be no need for obtaining 'NOC' in all cases of assignment of Ex.Servicemen and freedom fighters in which a period of 10 years has expired and there is no dispute on the land with the Government;
- (ii) All such cases without dispute shall be deleted from the prohibitory list under Section 22-A of Registration Act, 1908 and furnished to the Registration Department;
- (iii) In respect of cases in which there is a dispute with Government about the genuineness of the assignment or otherwise a list of such cases shall be prepared by District Collector and furnished to Registration Department by following the procedure under Section 22-A. The Sub-Registrar shall enter the details of such disputed lands in the online records deleting all other lands in which there is no dispute."

7. Reading of the above G.O. would show that the procedure of issuing 'NOC' is dispensed with. There is no need for obtaining 'NOC' in case of assignment of land to ex-servicemen, when 10 years period has lapsed from the date of assignment and where there is no dispute on the land with the Government. In the light of the above G.O., it can be said that the persons, to whom the lands were assigned under Ex.servicemen/freedom fighters' quota cannot be deprived of their right to transfer the assigned lands after the expiry of 10 years.

8. It is not in dispute that the subject land was assigned to the ex.service man and DKT patta was granted to him in the year 1992. Subsequent to the death of original assignee, his daughter succeeded to the subject property, and two decades thereafter, the subject property was sold away to the writ petitioner. Under those circumstances and in the light of the above G.O., we have no hesitation to hold that there is no justification in issuing the notice dated 27.1.2017 to the writ petitioner. Hence, we are not inclined to interfere with the orders passed by the learned single Judge. However, having regard to the submissions made by the learned Government Pleader, the direction given by the learned single Judge to the 4<sup>th</sup> respondent to pay costs of Rs.10,000/- to the writ petitioner is set aside.

9. Accordingly, the Writ Appeals are disposed of. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

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**C. PRAVEEN KUMAR, ACJ**

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**M. SATYANARAYANA MURTHY, J**

Dated: 20.08.2019  
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**AND**  
**THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY**

**WRIT APPEAL Nos.1138 & 1139 of 2018**

(Common Judgment delivered by the Hon'ble the Acting Chief Justice C. Praveen Kumar}

Dated: 20.8.2019

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