

IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI

HON'BLE MR. JUSTICE ARUP KUMAR GOSWAMI, CHIEF JUSTICE

&

HON'BLE MR. JUSTICE NINALA JAYASURYA

W.A. No.252 of 2021 & W.P (PIL) No.184 of 2021

(Through Video-Conferencing)

W.A. No.252 of 2021

Beneficent Knowledge Parks & Properties Ltd.,
Erstwhile Rassai Properties & Industries Ltd.
Having its Registered office Beneficent Knowledge,
Parks & Properties Ltd. Rep., by its Office 145 –
S.V. Road, Khar (W), Mumbai -400 052.

..Appellant

Versus

G. Ganesh, S/o Govindappa,
Aged 63 years, D.No.2/157, Main Road,
Parigi, Ananthapuramu District, A.P.,
and others.

... Respondents

Counsel for the Appellant : Mr. P. Veera Reddy, Sr. counsel
for Mr. P. Narahari Babu

Counsel for respondent Nos.1 to 49 : Mr. G.R. Sudhakar

Counsel for respondent Nos.50,
51, 52, 56 & 57 : GP for Revenue.

Counsel for respondent No.53 : GP for Mines & Geology

Counsel for respondent No.58 : Mr. Y.N. Anjaneyacharyulu

W.P (PIL) No.184 of 2021

K. Peddanna, S/o Chinna Muthyalappa,
Aged 35 years, Occ: Social Worker,
R/o JJR Nagar, Somandepalli (Village),
Parigi Mandal, Anantapuramu District,
Andhra Pradesh State.

..Petitioner

Versus

The State of Andhra Pradesh, rep., by its
Principal Secretary (Revenue),
Secretariat Building, Velagapudi,
Guntur District and others.

... Respondents

Counsel for the Petitioner	: Mr. K.S. Murthy for Mr. Sri Vijay Mathukumilli
Counsel for respondent Nos.1 to 9	: Mr. Syed Khader Masthan, GP for Additional Advocate General
Counsel for respondent No.10	: Mr. V. Vinod K. Reddy, standing counsel.
Counsel for respondent No.11	: Mr. Y.N. Anjaneyacharyulu
Counsel for respondent No.12	: Mr. P. Veera Reddy, Sr. counsel.

COMMON JUDGMENT

Dated: 07.09.2021

(Arup Kumar Goswami, CJ)

Heard Mr. P. Veera Reddy, learned Senior Counsel appearing for the appellant in W.A.No.252 of 2021 and for respondent No.12 in W.P (PIL) No.184 of 2021. Heard Mr. K.S. Murthy, learned counsel appearing for the petitioner in W.P.(PIL) No.184 of 2021. Also heard Mr. G.R. Sudhakar, learned Counsel for respondent Nos.1 to 49/writ petitioners in W.A.No.252 of 2021, learned Government Pleader for Revenue appearing for respondent Nos.50, 51, 52, 56 & 57, learned Government Pleader for Mines and Geology appearing for respondent No.53 in W.A.No.252 of 2021 and Mr. Y.N. Anjaneyacharyulu, learned counsel appearing for respondent No.58 in W.A.No.252 of 2021 and respondent No.11 in W.P (PIL) No.184 of 2021.

2. W.A.No.252 of 2021 has arisen against an order dated 25.03.2021 passed by the learned single Judge in I.A.No.2 of 2021 in W.P.No.6033 of 2021.

3. W.A.No.252 of 2021 is preferred by respondent No.9 in W.P.No.6033 of 2021. The said writ petition was filed by the writ petitioners claiming to be the farmers doing agriculture and owners of the lands situated in Sy.Nos.358-1, 359-1, 359-2, 360, 361-1, 361-2, 367-1, 367-2, 367-3, 368-1A and 368-2 of Parigi Village Hindupur Taluk, Ananthapuram District. The lands of the writ petitioners were acquired for the purpose of establishing a sugar factory and subsequently, an award No.1/78-79 dated 22.04.1978 was passed duly taking possession of the lands for the Nizam Sugar Factory at Parigi. It is pleaded that the lands of the petitioners were forcibly acquired by the Government and the Government had promised to provide employment to their families. It is stated that the land is acquired for industrial purpose and an industrial area is set up and as such, there cannot be any residential activity in the land earmarked for industrial purpose and contrary to the same, the respondent No.10 in the writ petition sold the property to Sri Renuka Sugars Limited and thereafter, Sri Renuka Sugar Factory executed a sale deed bearing Doc.No.8126 of 2007 in favour of Rassai Properties and Industries Limited. Thereafter, the Rassai Properties executed an agreement of sale-cum-General Power of Attorney vide Doc.No.8214 of 2007 in favour of respondent No.9, i.e., Beneficent Knowledge Parks and Properties Limited represented by Noble Enterprises. It is pleaded that there is a cloud over the property and its title and ownership. It is stated that in the year 1994, respondent No.10 in the writ petition shifted the machinery to Karnataka State. In those circumstances, the writ petitioners made

representations requesting the authorities for reconveying the lands. Accordingly, it is prayed to restrain respondent No.9 in the writ petition in converting the industrial land into plots and doing Real Estate Business in the lands assigned to Nizam Sugar Limited.

4. Perusal of the order of the learned single Judge goes to show that a contention was advanced that respondent No.9/Appellant was trying to sell away the land, in which Nizam Sugars Limited was established, and that several questions relating to alienation of the land in question are involved. A contention was advanced on behalf of the respondent No.9/appellant regarding maintainability of the writ petition. Considering the submissions, the learned single Judge opined that there are larger issues open for consideration in the writ petition including involvement of interest not only of the petitioners, but also public interest and, therefore, an interim order was called for and, accordingly, while posting the matter on 08.04.2021, the learned single Judge directed respondent Nos.1 to 8 in the writ petition not to permit sale of the land in question by respondent No.9.

5. When this appeal was taken up for consideration, W.P (PIL) No.184 of 2021 came to be filed and the same was listed along with W.A.No.252 of 2021.

6. In W.P (PIL) 184 of 2021, Nizam Sugars Limited is arrayed as respondent No.11 and the appellant in W.A.No.252 of 2021 is arrayed as respondent No.12. It is alleged that respondent No.12, who claimed to have purchased the property from respondent No.11, is trying to sell away the land to the prospective purchasers by formation of lay out and doing

real estate business, and that respondent Nos.1 to 10 in W.P (PIL) No.184 of 2021 are accommodating respondent No.12 in this exercise.

7. Mr. P. Veera Reddy, learned Senior Counsel appearing for the appellant in W.A.No.252 of 2021, submits that in the year 1975, the Government wanted to establish a Sugar Factory in Parigi Village, Ananthapuram District, and for that purpose, about Ac.145.00 of land was acquired, and while the State Government contributed only Rs.100/-, rest of the amount was provided by Nizam Sugar Factory for the purpose of acquisition, and that the entire compensation amount under the Award was paid and the factory was established in an area of Ac.10.00 cents. It is submitted that though initially the factory was running successfully, for variety of reasons, the sugar factory was not turning out to be economically viable and there was a proposal of sale and the land in question came to be sold successfully. According to the learned senior counsel, the appellant is the owner having purchased the land in question. It is contended by him that the writ petition against the Company, being not an authority within the meaning of Article 12 of the Constitution of India, is not maintainable.

8. Mr. G.R. Sudhakar, learned counsel appearing for respondent Nos.1 to 49/writ petitioners in W.A.No.252 of 2021, however, contends that in the facts and circumstances, the learned single Judge was justified in passing the order under challenge as public interest is also involved.

9. Mr. K.S. Murthy, learned counsel appearing for the petitioner in W.P (PIL) No.184 of 2021, submits that the scope of the public interest litigation is much broader, in the sense, that while the writ petitioners in W.P.No.6033 of 2021 were essentially espousing their own interest, the

public interest litigation is to unfold various facets of illegalities in the entire gamut of the matter.

10. Mr. P. Veera Reddy, learned Senior Counsel appearing for respondent No.12 in W.P (PIL) No.184 of 2021, submits that when the erstwhile land owners have filed the writ petition and the same being under consideration, at this juncture, the public interest litigation may not be entertained.

11. Mr. K.S. Murthy has submitted that when the ostensible public purpose in establishing a sugar cane factory had not been served, the land has to be resumed by the Government.

12. We have considered the submissions of the learned counsel appearing for the parties and perused the materials on record.

13. It is contended by the learned counsel for the parties that, till now, the appellant has not filed counter-affidavit in the writ petition. No affidavit was also stated to have been filed by the other respondents.

14. It is noticed that at the time of consideration of the interim prayer, the appellant in W.A.No.252 of 2021 was heard.

15. In the facts and circumstances of the case, we are in agreement with the learned single Judge that W.P.No.6033 of 2021 also has an element of public interest, though an individual interest is sought to be canvassed. Therefore, we are not inclined to vacate the interim order passed by the learned single Judge. However, since major plank of the argument of Mr. P. Veera Reddy is that the writ petition itself is not maintainable, we deem it appropriate to direct the Registry to list the writ

petition on 06.10.2021. In the meantime, the parties to the proceedings may file their respective counter affidavits.

16. In the attending facts and circumstances, when the writ petition is pending consideration in respect of the lands in question before the learned single Judge, it will not be advisable to entertain the Public Interest Litigation. Having said that, we are also conscious of the fact that certain aspects relating to public interest are raised in this petition, which cannot be overlooked. The learned single Judge has also noted that there are larger issues, including involvement of public interest in the writ petition. In that circumstance, we are of the opinion that ends of justice will be sub-served if we permit the petitioner in W.P (PIL) No.184 of 2021 to be impleaded as respondent No.11 in W.P.No.6033 of 2021, so as to enable him to put forth the issues sought to be raised by him. While impleading him as respondent No.11 in the writ petition, we provide that he will invariably file his affidavit on or before 30.09.2021, failing which, no prayer for extension of time to file an affidavit will be entertained.

17. Registry will make necessary incorporation in the cause-title of W.P.No.6033 of 2021.

18. While disposing of the Writ Appeal and the W.P (PIL) in the above terms, having regard to the facts and circumstances of the case, we request the learned single Judge to consider disposal of W.P.No.6033 of 2021 at an early date, preferably within a period of 3 (three) months from 06.10.2021. No costs. All pending miscellaneous applications, if any, shall stand closed.

ARUP KUMAR GOSWAMI, CJ

NINALA JAYASURYA, J

Nn/HS