

IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI

WRIT PETITION No.1065 OF 2020

% Dated 04.02.2020

#

Kuchipudi Ramamohana Rao
Occ: Cultivation
R/o. D.No.2-30, Mokhasa Narasannapalem
Nuzvid Mandal, Krishna District and four others

..... Petitioners

Vs.

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The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Revenue Department
Secretariat, Velagapudi and 4 others

..Respondents

JUDGMENT PRONOUNCED ON: 04.02.2020

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

1. Whether Reporters of Local newspapers may be allowed to see the Judgments?
2. Whether the copies of judgment may be marked to Law Reporters/Journals
3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment?

*** THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY**

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..Respondents

! Counsel for the petitioner : Sri Kambhampati Ramesh Babu

^ Counsel for the respondent :

Learned Government Pleader for Revenue

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> HEAD NOTE:

? Cases referred

1. 2010 (4) ALD 374
2. 2012 (5) ALT 631
3. 2007 (2) ALT 550
4. 1997 (2) ALT 486
5. AIR 2006 SC 1350

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**WRIT PETITION No. 1065 2020****ORDER:**

This writ petition is filed under Article 226 of the Constitution of India, to issue Writ of Mandamus, declaring the action of the respondents in proposing to assign as house site plots, the land situated in R.S.No.85 of Mokhasa Narasannapalem Village, Nuzvid Mandal, Krishna District, which is classified as 'Donka', by changing the classification/nature of the said land from 'Donka' to government assessed waste as illegal, arbitrary and violative of principles of natural justice and contrary to Andhra Pradesh Revenue Board Standing Orders (for short 'B.S.O') and consequently direct the respondents not to change the classification/nature of the land in R.S.No.85 of Mokhasa Narasannapalem Village, Nuzvid Mandal, Krishna District and not to allot the said land as house sites to the landless poor persons.

The petitioners possess various extents of lands in different survey numbers in Mokhasa Narasannapalem Village, Nuzvid Mandal and the details are tabulated as follows.

| S.No | Petitioner No. | Petitioner name | Extent of land possessed | Survey number |
|------|----------------------------|--------------------------|---|---|
| 1 | 1 st petitioner | Kuchipudi Ramamohana Rao | Ac.1-10 cents | R.S.No.84-1A1 |
| 2 | 2 nd petitioner | Chikati Satyavati | Ac.0-58 cents Ac.1-62 cents Ac.0-25 cents | R.S.No.84-1A1 R.S.No.84-1A3 R.S.No.84-1B1 |
| 3 | 3 rd petitioner | Oleti Baby Sarojini | Ac.1-30 cents | R.S.No.84-1A2 |
| 4 | 4 th petitioner | Mudagani Subbalakshmi | Ac.1-00 cents | R.S.No.83-6 |

All the above lands are being enjoyed and cultivated by the respective petitioners and their names were mutated in the revenue

records. All the above lands are adjacent to each other and towards eastern side of the said land and natural stream along with road is situated in R.S.No.85. The land in R.S.No.85 is classified as 'Donka' and the said land is being utilized for the purpose of road as well as natural stream (drainage canal) i.e for free flow of flood water including the over flown water from the tank situated in the same survey number which is being called as 'Adaihkunta'.

While the matter stood thus, with a view to allot the land in R.S.No.85 as house sites to the landless poor, the government proposed to issue D-Form patta, allotment of house sites in the State and in such process, the government proposed to convert the road and natural stream situated in R.S.No.85 is a Assessed Waste Land (AWD). It is the specific contention of the petitioners that the land in R.S.No.85 is being utilized as road for ingress and egress to the fields and more than 1000 acres of agricultural land as well as to the Madicherla Village from Mokhasa Narsannapalem Village. Apart from the same, in some part of the said land, there is a tank called as 'Adhaikunta'. During floods, the water will be stagnated in the said tank and the excess water, as well as the flood water from their lands, apart from other lands will flow through the natural stream situated in the part of the land situated in R.S.No.85. The road situated in the land is classified as 'Donka' i.e. in R.S.No.85 is the only way for the petitioners to reach their agricultural fields. Recently, the respondents conducted survey of the said lands and on enquiry, they came to know that the respondents are proposing to allot house site pattas by reducing the road width and natural stream and by changing the nature of the land in records.

It is the specific contention of the petitioners that the government has no right to change the nature of land from 'Donka' to any other nature and further a natural stream is passing through this land apart from tank and road. The F.M.B copies of the above survey numbers clearly disclose about the classification of the land in R.S.No.85 as 'Donka'. The very purpose of the respondents intending to change the classification of lands in the survey number is to issue house site pattas. Therefore, in case the respondents are allowed to assign the lands to landless poor by issuing D-Form pattas, the petitioners would be deprived of their amenity of road and letting out water from the tank and if, flow of water is obstructed, the lands of these petitioners and others will be flooded with water during rainy season.

Further, it is contended that there is a clear prohibition to assign such land under B.S.O 15(2). According to it, the extent of land preserved by the government like bunds, etc, can be re-classified to certain extent. When a road runs through the land applied for assignment, a width of at least one chain should be set apart for the road and the remainder dealt with under the rules. Similarly, when the bank of an irrigation work runs through or near the land, the extent of land required to allow a margin of one chain along the foot of the embankments should be set apart if the irrigation work is an important one such as a main canal, a main distributory or a main drainage, channel. one chain is equal to 100 links or equal to 66' (sixty six feet), as such the B.S.O 15(2) imposes a prohibition of assignment for a width of 66' from the bank of channel. But, without adhering to the said prohibition, the

respondents intended to assign the land to house sites by reducing the width of the road as well as drainage canal, which is illegal.

It is contended that the natural stream and road i.e. drainage canal and road in the said survey numbers is in existence since time immemorial. The petitioners being the owners of agricultural lands adjacent to the said road and canal in R.S.No.85 have right to claim access to the said road and the rain water will flow into the said land. As such, the action of the respondents in proposing to assign house site plots in the land in R.S.No.85 of Mokhasa Narasannapalem Village and proposing to change the classification of the land in R.S.No.85 from classification of 'Donka' to government assessed waste is illegal and arbitrary and requested this Court to declare the same as illegal and arbitrary and issue a direction not to assign the land in R.S.No.85 of Mokhasa Narasannapalem Village, Nuzvid Mandal, Krishna District.

The respondents did not file any counter, but placed on record the written instructions dated 22.01.2020, contending that the land in R.S.No.85 of Mokhasa Narasannapalem Village, measuring Ac.9-56 cents is classified as "Donka" as per Revenue Records. The width of the donka is up to 545 links or 350 feet. There is a existing cement road in the donka and also encroachment nearly 30 numbers with dwelling houses after leaving existing road and encroachments with sufficient road margin with 150 feet and the remaining land is proposed for house sites. It is submitted that there are no drains/water streams in the said land. Hence, question of disturbance to movement of vehicles does not arise and the petitioner with an intention to enjoy the government field, filed the writ petition to stop the process and requested to dismiss the writ petition.

During hearing, learned counsel for the petitioners Sri Kambampati Ramesh Babu reiterated the contentions urged in the writ petition, while drawing the attention of this Court to the adangal copies, more particularly, to establish the classification of the land in Sy.No.85 as tank, Donka possession and enjoyment of the land of these petitioners, so also, the tank in part of survey number, road in the middle of the land by producing the F.M.B. On the strength of these documents, learned counsel for the petitioners contended that the land in R.S.No.85 of Mokhasa Narasannapalem Village, Nuzvid Mandal, Krishna District cannot be converted into A.W.D to assign the same to the landless poor persons, depriving the petitioners from facility of passage and requested to issue a direction as prayed for.

Whereas, learned Assistant Government Pleader for Assignments contended that, when the width of the donka is upto 545 links or 350 feet, even after leaving the road on either side i.e. sufficient margin of 150 feet, the remaining land is proposed for the house sites. Therefore, the petitioners being the agriculturists, cannot be permitted to encroach the lands for their use when it is classified as government land and requested to dismiss the writ petition.

There is no dispute with regard to possession of the land by these petitioners and the same is supported by Form-1B produced along with the writ petition. Even the respondents also did not deny either possessing land by these petitioners or classification of land as "Donka" and existence of tank known as 'Adaikunta' as per the revenue records. On the other hand, R.S.No.85 of Mokhasa Narasannapalem Village, Nuzvid Mandal, Krishna District disclosed that the land in R.S.No.85 in an extent of Ac.9-56 cents is classified

as government land, as shown in Column No.6 of Adangal and nature of the land in Column No.8,12 & 13 is mentioned as “Donka”.

In addition to the admission as to the classification of the land, the copy of F.M.B discloses that there is a tank in R.S.No.85, known as ‘Adaikunta’ with a depth three feet, so also cement road in the middle of the land from north to south. But, the width of the main road is not disclosed in the petition or in the instructions placed on record. However, the respondents in their written instructions stated that there is sufficient road margin with 150 feet and the remaining is proposed for house sites.

In any view of the matter, B.S.O 15(4) deals with the lands that may be assigned and that may not be assigned and the same is extracted hereunder for better appreciation of the case:

“BSO 15(4) Lands that may be assigned and that may not be assigned: -

(i) All lands at the disposal of the Government except those hereinafter prohibited may be assigned. The assignment of lands shall generally be free of market value except in the case of project affected lands in which case market value shall be collected.

(ii) The assignment of the following classes of lands is prohibited:

(a) Poramboke (tank beds, foreshore of tank bed cattle stands, grazing lands and reserved lands (reserved for depressed class members or for any public purpose, such as schools, playgrounds, hospitals, maternity centers, reading rooms and extension of house-sites, Panchayat purposes, town sites and lands in the proximity thereof.

(b) Land which has been occupied for 18 months and adjoins a reserve forest or an unreserved block of a square mile or more until the Collector has consulted the District Forest Officer and considered any objections, he may have to its assignment;

(c) Lands containing topes or valuable trees;

(d) Lands within cantonment limits;

(e) Lands reserved under Section 26 of the Forest Act;

(f) Lands within port limits;

(g) Lands near the sea coast within one furlong of high water mark of the sea;

(h) Water course porambokes, namely, margins of channels, streams etc.;

(i) Lands in the vicinity of aerodromes or landing grounds (i.e.) within a belt of 200 yards;

(j) Lands containing minerals, quarries, etc.

(k) Padugais i.e. land within the flood bank of rivers, lands not held on ryotwari tenure, river accretions and reformed lands for which the owners have ceased to pay assessment;

(l) Lands where "pati matti" is available and;

(m) Any other lands which are required or likely to be required for any public or any special purposes necessary for the provision of amenities of the community or connected with the development of the village.

Provided, however, that tank bed lands, foreshore lands and lands under categories (g), (j), (k) and (m) above, if not immediately required or if their occupation be not objectionable at present, may be leased with a condition for resumption, when required for public purpose without payment of compensation for improvements, if any effected."

In view of B.S.O 15(4)(m), any other lands which are required or likely to be required for any public or any special purposes necessary for the provision of amenities of the community or connected with the development of the village, provided, however, that tank bed lands, foreshore lands and lands under categories (g), (j), (k) and (m) above, if not immediately required or if their occupation be not objectionable at present, may be leased with a condition for resumption, when required for public purpose without payment of compensation for improvements, if any effected. Thus, from B.S.O 15(4)(m), land which is required for the provision of

amenities to the community cannot be assigned. Customary easement, as provided under Section 18 of the Easements Act is an amenity to the land owned and possessed by the farmers within the vicinity, since the same is being used as road and to natural flow of excess water in 'Adaihkunta'.

From the road, an extent of one chain on either side has to be left, one chain is equivalent to 66 feet and according to the instructions, road margin is about 150 feet on either side. In such case, the remaining part of the land in R.S.No.85 of Mokhasa Narasannapalem Village, Nuzvid Mandal, Krishna District with variation of margins cannot be assigned. A close look at the F.M.B produced before this Court, the road margin is uneven and major of the southern portion of the survey number is totally covered by Adaikunta Tank. So, this tank beds cannot be assigned, in view of B.S.O 15(4)(h, m). Even otherwise, necessary margins have to be left.

as per B.S.O 15(2) the extent of land preserved by the government like bunds, etc, can be re-classified to certain extent. When a road runs through the land applied for assignment, a width of at least one chain should be set apart for the road and the remainder can be dealt with as per the rules. Similarly, when the bank of an irrigation work runs through or near the land, the extent of land required to allow a margin of one chain along the foot of the embankments should be set apart if the irrigation work is an important one such as a main canal, a main distributory or a main drainage, channel. In the case of subordinate or minor distributaries or minor drains, a margin of 30 links will be sufficient. Detailed lists of both the classes of work above referred to will be furnished by the Public Works Department. But, if in any case the irrigation work

concerned is not found in either list, a margin of one chain should be set apart or reference made to the Executive Engineer, in the case of channels without embankments, however, it will suffice to set apart a margin of 15 links. If stream runs through or near the land, a margin of not less than 50 links on either bank should as a general rule be reserved and registered as poramboke. Land set apart as above should be shown in the accounts as road, tank, channel or stream or poramboke, as the case may be. It is pertinent to note that, one chain is equal to 100 links or equal to 66' (sixty six feet), as such the B.S.O 15(2) imposes a prohibition of assignment for a width of 66' from the bank of channel. If, the mandate under B.S.O 15(4) is followed, the northern portion of R.S.No.85 of Mokhasa Narasannapalem Village, Nuzvid Mandal, Krishna District cannot be assigned.

Coming to the other part of the land, the margins are uneven and at some parts, the margin is minimum and at other part, the margin is more. If, one chain on either side is required to be left, as per B.S.O 15(2), the question of assigning the land to the landless poor at different parts of the survey number is impossible. On the extreme southern side, there is absolutely no site available for assignment, because it is too narrow on the extreme southern side of the land in R.S.No.85 of Mokhasa Narasannapalem Village, Nuzvid Mandal, Krishna District. Therefore, proposing to assign the land without leaving the margins as per B.S.O 15(2) is an illegality.

According to Section 53 of The A.P. Panchayat Raj Act, 1994 (for short 'Panchayat Raj Act'), all public roads in any village, other than National Highways, State Highways and roads vesting in Zilla Parishad or Mandal Parishad shall vest in the gram panchayat

together with all pavements, stones and other materials thereof, all works, materials and other things provided therefore, all sewers, drains, drainage works, tunnels and culverts, whether made at the cost of the gram panchayat fund or otherwise, in along side or under such roads, and all works, materials and things appertaining thereto. Therefore, drainage poramboke, sewer, canal poramboke and road poramboke are deemed to have been vested on the gram panchayat and the gram panchayat will have control over those properties, since the public roads are public properties and they are constructed for the public purpose.

Thus, as per Section 53 of the Panchayat Raj Act, all public roads in any village, other than National Highways and State Highways vest in gram panchayat for the purpose of maintenance. If any immovable property for the purpose of maintenance or for achieving any of the public purpose is required, Gram Panchayat has to – through appropriate Revenue Authority, acquire the land following the procedure under the Land Acquisition Act, 1894. (vide **G. Venkata Reddy v. E.O, G.P. Kollapur Village and Mandal and Post¹**). Thus, it is clear from the law declared by the Court that, when the property is deemed to have been vested, it is for the purpose of maintenance and even if the panchayat wants to take over the property, except by due process of acquiring the property, i.e. by acquiring the property through revenue department, they cannot take the property by claiming ownership.

Similarly, according to Section 55 of the Panchayat Raj, communal property is also deemed to have been vested in the panchayat and the income derived there from can be utilized by the

¹ 2010 (4) ALD 374

gram panchayat for the benefit of the villagers in common or the holders in common of village land generally or of lands of a particular description or of lands under a particular source of irrigation, shall vest in the gram panchayat and be administered by it for the benefit of the villagers or holders.

Section 56 of the Panchayat Raj Act obligates the gram panchayat to maintain irrigation works, execution of kudimaramat etc. Section 57 of Panchayat Raj Act deals with vesting of the management of ferries in gram panchayat and according to it, Notwithstanding anything in the Andhra Pradesh (Andhra Area) Canals and Public Ferries Act, 1890 (Act 2 of 1890) and the Andhra Pradesh (Telangana Area) Ferries Act, 1314 Fasli (Act 2 of 1314 F), the management of a public ferry in the Andhra Area, and of a Government ferry in the Telangana area other than a ferry mentioned in sub-section (2) shall vest –

(a) in the case of a ferry connecting any public road under the management of a gram panchayat and lying wholly within the jurisdiction of that Gram Panchayat, in such Gram Panchayat and in the case of a ferry connecting any public road under the management of a Gram Panchayat and lying within the jurisdiction of more than one Gram Panchayat, in a joint committee of the Gram Panchayats concerned;

(b) in case of a ferry connecting any public road under the management of a Mandal Parishad and lying wholly within the jurisdiction of that Mandal Parishad, in such Mandal Parishad and in the case of ferry connecting any public road under the management of a Mandal Parishad and lying within the jurisdiction of more than one Mandal Parishad, in a joint committee of the Mandal Parishads concerned;

(c) in the case of a ferry connecting any public road under the management of a Gram Panchayat or a Mandal Parishad and lying partly within the jurisdiction of a municipality, in a joint committee

of the Gram Panchayat or a Mandal Parishad as the case may be, and the Municipality concerned.

(2) The Government may, subject to such conditions as may be agreed upon transfer the management of any such ferry connecting a National Highway or a State Highway and lying wholly within the jurisdiction of a Gram Panchayat or a Mandal Parishad to such Gram Panchayat or Mandal Parishad and in case the said ferry is lying within the jurisdiction of more than one Gram Panchayat or Mandal Parishad, to the Zilla Parishad concerned.

(3) The constitution and powers of the procedure to be adopted by any joint committee referred to in sub-section (1) and the method of resolving any difference of opinion arising between the local authorities concerned in connection with the works of such committee shall be in accordance with such rules as may be prescribed.

(4) The income realised by a Zilla Parishad, Mandal Parishad or a Gram Panchayat from any ferry under its management under sub-section (1) or sub-section (2) shall form part of its funds. The income realized by joint committee referred to in sub-section (1) or by a Zilla Parishad under subsection (2) from a ferry under its management shall be apportioned in equal shares between the local authorities concerned and the amount so apportioned shall form part of the funds of such local authorities.

Section 58 of the Panchayat Raj Act is a special provision to divest the tanks, roads, etc, specified in Sections 53, 54, 55 & 57, including the porambokes namely, grazing grounds, thrashing floors, burning and burial grounds, cattle stands, cart tracks and topes,

which are at the disposal of the Government and are not required by them for any specific purpose shall vest in the Gram Panchayat subject to such restrictions and control as may be prescribed. Sub-section (2) of Section 58 says that, the Government may, at any time by notification in the Andhra Pradesh Gazette, direct that any porambokes referred to in sub-section (1) shall cease to vest in the Gram Panchayat if it is required by them for any specific purpose and thereupon such porambokes shall vest in the Government. Therefore, a gazette notification is necessary to divest the property on the government that vested on the gram panchayat. In the absence of any notification issued by the Government divesting Gram Panchayats of any poramboke lands, there cannot be any use of panchayat land by following B.S.O 15(2), the same cannot be assigned to the landless poor for house sites or otherwise. Thus, unless there is a notification by the Government divesting gram panchayat and vesting on Government any property referred above, there cannot be any use of panchayat land for any other purpose. (vide **Rythu Seva Sangam, Yenamadurru v. Bhimavaram Municipality²** and **Banne Gandhi and others v. District Collector³**).

A similar issue like distribution of gramakantam land which is community land to the landless poor came up for consideration in **Sarpanch Palakda Gram Panchayat v. District Collector⁴**, where the High Court of Andhra Pradesh held that distribution or assignment of gramakantham which is community land to anyone by Government without issuing any notification, divesting such land from Panchayat is illegal.

² 2012 (5) ALT 631

³ 2007 (2) ALT 550

⁴ 1997 (2) ALT 486

By applying these principles to the present facts of the case, the proposed assignment without divesting the land on the Government that vested on the gram panchayat by virtue of the provisions referred above is a serious illegality. Therefore, the proposed assignment of land in R.S.No.85 of Mokhasa Narasannapalem Village, Nuzvid Mandal, Krishna District for house sites to the Weaker Sections that vested on the gram panchayat without de-notifying by issuing gazette notification, as mandated under Section 58(2) of the Panchayat Raj Act is a serious illegality, which vitiates the entire procedure. In the present facts of the case, no procedure prescribed under Section 58(2) of Panchayat Raj Act is followed. On this ground alone, the action of the respondents in taking steps to assign the lands in R.S.No.85 of Mokhasa Narasannapalem Village, Nuzvid Mandal, Krishna District, for house sites to the Weaker Sections, is liable to be set-aside.

When the government wanted to introduce certain policy for the benefit of the poor of the State, the State is bound to follow G.O.Ms.No.510 Revenue (Lands-1) Department dated 30.12.2019 and the Andhra Pradesh Revenue Board Standing Orders.

While implementing such schemes, the State has to keep in mind the good governance, the word governance is defined as “the exercise of political, economic and administrative authority in the management of a country’s affairs at all levels. Governance comprises the mechanisms, processes and institutions through which citizens and groups articulate their interests, exercise their political rights, meet their obligations and mediate their differences. Therefore, participation in administration by both men and women is the key cornerstone of good governance. Participation may be direct

or indirect. Good Governance requires fair legal frameworks that are enforced impartially. It also requires protection of human rights, independent and impartial police force, and bureaucracy. It means that information is freely available and directly accessible to those who will be affected by such decisions and their enforcement, maintaining utmost transparency. Responsiveness is also part of Good Governance and while implementing such schemes, there must be a good response to the queries of the public at large and maintain equality, inclusiveness and efficiency while fixing accountability to the concerned officials who are directly or indirectly connected with the process of implementation of such schemes. But, in the present facts of the case, though the State is conscious about the G.Os issued by it and B.S.Os, in utmost haste, started assigning the land to various persons though such assignment is impermissible under law. Therefore, the actions of the state do not satisfy the requirement of good governance.

Good Governance as a democratic exigency, in order to rid corruption, provides rights, the means, and the capacity to participate in the decisions that affect their lives and to hold their governments accountable for what they do, since the basic features or elements of good governance, it is participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law. It assures that corruption is minimized, the views of minorities are taken into account and that the voices of the most vulnerable in society are heard in decision-making. It is also responsible to the present and future needs of the society.

Coming to the facts of the present case, with reference to good governance, the State in haphazard manner framed certain guidelines for providing house sites to landless poor within a time frame, without prior identification of the land, proposed to be assigned. But, in utmost hurry, the officials at different levels identifying the land somehow to satisfy the higher-ups in the administration, irrespective of feasibility and permissibility to assign those lands, totally ignored the orders issued by the Government, more particularly, G.O.Ms.No.510 Revenue (Lands-1) Department dated 30.12.2019 and the Andhra Pradesh Revenue Board Standing Orders, including the provisions of Panchayat Raj Act. Such haste acts leads to deprivation of rights of the citizen. In fact, in G.O.Ms.No.510 Revenue (Lands-1) Department dated 30.12.2019 itself, the Government authorized the District Collectors not to propose any lands belongs to Endowments, Educational Institutions, Wakf or any other religious related lands, environmentally sensitive and fragile areas such as, tank beds, river beds, other water bodies and hillocks with afforestation etc., for house site purposes.

In view of B.S.O 15(4)(h,m), water bodies, any other lands which are required or likely to be required for any public or any special purposes necessary for the provision of amenities of the community or connected with the development of the village, provided, however, that tank bed lands, foreshore lands and lands under categories (g), (j), (k) and (m) above, if not immediately required or if their occupation be not objectionable at present, may be leased with a condition for resumption, when required for public purpose without payment of compensation for improvements, if any effected. Thus, from B.S.O 15(4)(m), land which is required for the provision of

amenities to the community cannot be assigned. Therefore, the amenities provided to the farmers and citizens of the State cannot be taken away by assigning the lands to the landless poor in the schemes of the State in the name of providing house sites to the landless poor, since conferring right to one sect of people, depriving the others is not good governance.

Even according to the proviso to B.S.O 15(4) thereto, if such land is covered by Clauses (g), (j), (k) and (m), if not immediately required or if their occupation be not objectionable at present, may be leased with a condition for resumption, when required for any public purpose without payment of compensation for improvements, if any affected. Therefore, such land preserved cannot be assigned, except ek sal lease. But, the same cannot be converted by exercising power under B.S.O 15(2). In those circumstances, the proposal to assign the land in R.S.No.85 of Mokhasa Narasannapalem Village, Nuzvid Mandal, Krishna District, is a grave illegality.

Hence, the proposal of the respondents to assign the land mentioned in the written instructions, to the landless poor without adhering to B.S.O 15 and the judgment of Apex Court **Intellectual Forum, Tirupati v. State of Andhra Pradesh**⁵ and the mandatory procedure under A.P. Panchayat Raj Act is illegal.

In the result, writ petition is allowed, declaring the action of the respondents in proposing to assign house site plots in the land situated in R.S.No.85 of Mokhasa Narasannapalem Village, Nuzvid Mandal, Krishna District, without adhering to the guidelines issued by the State in G.O.Ms.No.510 Revenue (Lands-1) Department dated 30.12.2019 and B.S.O 15(4) of the Andhra Pradesh Revenue Board

⁵ AIR 2006 SC 1350

Standing Orders and proviso thereto, so also, Sections 53 and 58 of A.P. Panchayat Raj Act as illegal and arbitrary. Consequently, the respondents are directed not to assign the lands without following the mandatory procedure.

However, liberty is given to the State to take steps for assignment, identifying the land in R.S.No.85 of Mokhasa Narasannapalem Village, Nuzvid Mandal, Krishna District, strictly adhering to G.O.Ms.No.510 Revenue (Lands-1) Department dated 30.12.2019 and B.S.O 15(4) of the Andhra Pradesh Revenue Board Standing Orders and the judgment of the Supreme Court in **Intellectual Forum, Tirupati v. State of Andhra Pradesh** (referred supra) and Sections 53 and 58 of A.P. Panchayat Raj Act, in the presence of the petitioners, after serving notice in writing, affixing the date and time for such identification and proceed further, in accordance with law.

Consequently, miscellaneous applications pending if any, shall stand dismissed.

JUSTICE M. SATYANARAYANA MURTHY

Date:04.02.2020

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