

THE GOVERNMENT OF ANDHRA PRADESH & ORS. A

v.

GRACE SATHYAVATHY SHASHIKANT & ORS.

(Miscellaneous Application Nos. 910-924 of 2019)

B

In

(Review Petition (Civil) Nos. 3793-3807 of 2018)

C

In

(Civil Appeal Nos. 5442-5456 of 2015)

OCTOBER 01, 2019

**[R. F. NARIMAN, K. M. JOSEPH AND
V. RAMASUBRAMANIAN, JJ.]**

Urban Land (Ceiling and Regulation) Act, 1976 – The urban land ceiling proceedings handed certain land to the newspaper publication – The said proceedings were challenged – Single Judge of the High Court ordered a survey and held that if after survey, it is clear that the extent of 8000 sq. mtrs. allotted to the publication was in fact survey no.129/45/D, the order of allotment would be set aside – Supreme Court upheld the order of the Single Judge and ordered demarcation of survey no. 129/45/D – Initial survey carried out stated no such land in the said survey number existed – Pursuant thereto, the State requested review of the Supreme Court judgment – Review petition was filed by the State, however, same was disposed of with the direction that the report filed was not in consonance with the order passed by the Supreme Court – Thereafter, a compliance report was filed with a map appended thereto – Held: The documents involved in the original civil appeals disclose the fact that the said property was in rectangular shape – On perusal of the map appended to the Compliance Report, the description of the property would accord with TS No. 19/P which was marked by the letters 'PQRS' (rectangular shape) and the same was allotted to the newspaper publication and plot no.129/45/D was marked as 'ABC' (triangular shape) – The land marked as 'ABC' was heavily built up and was of no use to the appellants – The first survey report wrongly stated that land does not exist –

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- A *However, the Second report located the land, but not where it actually existed – Given the extraordinary facts of the case, powers u/Art. 142 exercised – The second report submitted was rejected and it was declared that the land which is at survey no. 19/P and which is marked in the map of the second survey report as 'PQRS' is the land that is actually survey no. 129/45/D – This being the case, the allotment made set aside and newspaper publication directed to deliver land to the appellants.*
- B *the allotment made set aside and newspaper publication directed to deliver land to the appellants.*

Disposing of the applications, the Court

- HELD:** 1. Ordinarily, this Court would have relegated the
- C original appellants to challenge the Report that has now been filed in compliance with Review Order. However, there is a reluctance on the part of the authorities to part with this land as it is extremely valuable. This Court has found how, in the earlier round of proceedings, they have taken various conflicting
 - D stands as to whether the land was originally evacuee property or otherwise. This Court also finds that in the first Survey that was done pursuant to the Single Judge's judgment, there was a great reluctance to part with this land which is why the aforesaid Survey Report wrongly stated that such land does not at all exist.
 - E It is only at the repeated insistence of this Court that finally a Survey Report has now located the land, but not where it actually exists. The reason is not far to seek - because if, as per the map appended to the present Report, the land marked A, B, C was to be handed over to the appellants, it would be land which is heavily built up and of no use, whatsoever, to the appellants.
 - F [Para 12] [656-E-H]

2. Therefore, given the extraordinary facts of this case, this Court does not wish to drive the appellants to one more round of proceedings and, therefore, in exercise of powers under Article 142 of the Constitution of India, the second Report is rejected and it is declared that the land which is at Survey No. 19/P and which is marked in the map of the second Survey Report as 'PQRS' is the land that is actually Survey No. 129/45/D. This being the case, it is clear that the allotment made to newspaper publication must be set aside, and the land be
- G rejected and it is declared that the land which is at Survey No. 19/P and which is marked in the map of the second Survey Report as 'PQRS' is the land that is actually Survey No. 129/45/D. This being the case, it is clear that the allotment made to newspaper publication must be set aside, and the land be
 - H delivered to the appellants. [Para 13] [657-A-B]

INHERENT/CIVIL APPELLATE JURISDICTION : A
Miscellaneous Application Nos. 910-924 of 2019 in Review Petition (c)
Nos. 3793-3807 of 2018 in Civil Appeal Nos. 5442-5456 of 2015.

From the Judgment and Order dated 27.02.2019 passed by this
Hon'ble Court in Review Petition (C) Nos.3793-3807 of 2018

Mahesh Jethmalani, P. Raghuram, K. Radhakrishnan,
Dushyant A. Dave, Sr. Advs., Ms. Ananga Bhattacharyya, Rohit Rao
N., Devahuti Tamuli, Ms. Sania Perween, P. Venkat Reddy, Prashant
Tyagi, P. Srinivas Reddy, Ms. D. Geeta, Ms. CH. Ramola Priya,
Ms. V. S. Lakshmi, A. V. Balan, M/s. Venkat Palwai Law Associates,
Ms. Bina Madhavan, Waghaley, Satya Adiraju, M/s. Lawyer S Knit &
Co., Advs. for the appearing parties.

The Judgment of the Court was delivered by

R. F. NARIMAN, J.

1. The matter before us has had a chequered history and has careered through the Courts resulting ultimately in Government filing a review petition against our judgment dated 16.08.2017, which review was disposed of by judgment dated 27.02.2019 seeking to locate where exactly Survey No. 129/45/D, Jubilee Hills, Sheikpet, Hyderabad, happens to be.

2. The writ petitions were originally filed challenging the proceedings under Urban Land (Ceiling and Regulation) Act, 1976, and a proceeding by which certain land was handed over to the Andhra Prabha Publications(newspaper publication). These proceedings culminated in the judgment of a learned Single Judge, who ultimately stated that the Urban Land Ceiling proceedings have abated, and that it would be necessary to get a Survey conducted by the competent authority in order to determine whether the allotment of land to the Andhra Prabha publications would be set aside. It was held by the learned Single Judge that if, after survey, it is clear that the extent of 8,000 square meters that was allotted to the Andhra Prabha publications was in fact Survey No. 129/45/D, the order allotting the aforesaid land to Andhra Prabha publications would have to be set aside. It was further ordered that if the petitioners feel aggrieved by the said survey result, they shall be free to file appropriate remedies available to them in law.

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- A 3. The Division Bench of the High Court of Judicature, Andhra Pradesh, by a judgment dated 16.03.2011, set aside the judgment of the learned Single Judge. The order of the Division bench was, in turn, set aside by this Court on 16.08.2017, by which judgment it was stated that the Division Bench erred in mixing up two sets of properties, as a result of which, after setting aside the order of the Division Bench, the direction contained in the order of the learned Single Judge was restored. Proceedings then arose in which our order dated 10.05.2018 reflects that Survey no. 129/45/D had to be demarcated. Despite an order of this Court dated 21.03.2018, this had not taken place, as a result of which the authorities were directed to submit on affidavit a copy of
- B the demarcated area on a plan made out for that purpose.

- C 4. The initial Survey that was then carried out stated that no such land as is contained in the aforesaid Survey number exists. When faced with this, the then learned senior counsel appearing for the State requested that the judgment itself be reviewed. A review petition was then filed which was disposed of by a detailed judgment by this Court dated 27.02.2019 in which this Court referred to various documents and then stated:

- E “Given the High Court judgment and the aforesaid documents, it is obviously not open to the Government to state that no such plot, that is Survey No. 129/45/D or 129/D-45, exists in Jubilee Hills, Sheikpet, Hyderabad.

- F This being the case, we reject the Committee Report that has since been filed dated 02.07.2018 and set it aside as this Report is not in consonance with the directions of the learned Single Judge which has been upheld by us.

- G We, therefore, direct the Government to demarcate the aforesaid plot being land on the ground as it exists today. This will be done strictly in accordance with the Single Judge’s directions by the Collector within a period of eight weeks from today.

- G The Review Petitions stand disposed of accordingly.

List after eight weeks for compliance.”

- H 5. Pursuant to the aforesaid order, a Compliance Report has been given to this Court with a map appended thereto. Ultimately, the said land was located by the aforesaid Report on the said map as follows:

“Findings: - It is observed that

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1. A portion of land now demarcated in Plot No. 129/45/D to an extent of Ac.O-38½ gts where an NOC was issued, corresponding to T.S. No. 20, Block-K, Ward No. 12 of Shaikpet Village and the remaining portion of land as per compromise deed in S.A. No. 354/2 of 1954-55 admeasuring Ac. 2-22½ gts is on northern side of the NOC issued land forming part of 129/45/D corresponds to TS.No. 19P, 18P, 17/2p, Block-K, Ward-12.

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2. The Land allotted to Andhra Prabha is located in TS.No. 19/p, Block-K, Ward No. 12 of Shaikpet village is not falling in the land demarcated by the Committee.

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3. Accordingly, plot No. 129/45/D a map is prepared showing the location of Plot No. 129/45/D (triangle ABC) and land allotted to Andhra Prabha (Rectangle PQRS).

6. Objections were then filed to the aforesaid Report by the original petitioners in the civil appeals, to which replies have been filed by the State of Telangana and by Andhra Prabha Publications.

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7. Having heard learned counsel for all the parties, it is important to advert, first and foremost, to some of the documents that were involved in the original civil appeals before us. A sale deed dated 16.07.1962, which is of pivotal importance in the facts of this case, had made it clear that the property was in rectangular shape and was bounded, among other things, by a public proposed road on the north and vacant Government land on the south and the west. If the map appended to the Compliance Report is to be seen, the description of this property would accord with TS No. 19/P which is marked by the letters ‘PQRS’ and which has been allotted to Andhra Prabha publications.

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8. In addition, if the Urban Land Ceiling Authority’s order of 27.06.2000, declaring part of this land surplus, is also to be seen, the aforesaid order makes it clear that plot No. 129/45/D is contained in TS No. 19/2 and is described as Surplus Vacant Land (it is not disputed that the land which falls under TS No. 17/2 and which admeasures 2 acres 22½ gunthas is heavily built up with buildings having been constructed in the 1980s). Also, the said Urban Land Ceiling order has specifically held that the land on which plot No. 129/45/D stood did not involve any Government land, it being privately owned.

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- A 9. However, Shri K. Radhakrishnan, learned senior counsel appearing on behalf of the Government, read to us in *extenso* the reply affidavit filed on behalf of the State of Telangana dated 03.09.2019 in which, after going into the history of the Town Planning Survey of this area, it is specifically stated that the land allotted to Andhra Prabha publications is classified as a Government land which is vacant and different from the land in Survey No. 129/45/D. We have seen from the description of this land in the sale deed of 1962 as well as in the competent authority's order dated 27.06.2000 that this would be wholly incorrect inasmuch as this land is clearly not a Government land.
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- C 10. It was also brought to our notice by Mr. Mahesh Jethmalani, learned senior counsel appearing on behalf of Andhra Prabha publications, that averments were made by an affidavit of 2006 by the appellants in the original case stating that Survey No.129/45/D was distinct from Survey No. 403 and that being so distinct, they should not be allowed to turn around and argue to the contrary. He also argued that the aforesaid land really could not be stated to be in existence, as was mentioned in the first Survey Report.
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- E 11. We are afraid that neither of these contentions is open to the learned counsel in view of our judgment dated 27.02.2019 disposing of the review petition before us.
- F 12. Ordinarily, we would have relegated the original appellants before us to challenge the Report that has now been filed in compliance with our Review Order. However, we find a reluctance on the part of the authorities to part with this land as it is extremely valuable. We have found how, in the earlier round of proceedings, they have taken various conflicting stands as to whether the land was originally evacuee property or otherwise. We also find that in the first Survey that was done pursuant to the learned Single Judge's judgment, there was a great reluctance to part with this land which is why the aforesaid Survey Report wrongly stated that such land does not at all exist. It is only at the repeated insistence of this Court that finally a Survey Report has now located the land, but not where it actually exists. The reason is not far to seek - because if, as per the map appended to the present Report, the land marked A, B, C was to be handed over to the appellants, it would be land which is heavily built up and of no use, whatsoever, to
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- H the appellants.

13. We are therefore of the view that, given the extraordinary facts of this case, we do not wish to drive the appellants to one more round of proceedings and, therefore, in exercise of our powers under Article 142 of the Constitution of India, reject the second Report that has been given to us and declare that the land which is at Survey No. 19/P and which is marked in the map of the second Survey Report as 'PQRS' is the land that is actually Survey No. 129/45/D. This being the case, it is clear that the allotment made to Andhra Prabha publications must be set aside, and the land be delivered by Andhra Prabha Publications to the appellants within a period of eight weeks from today.

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14. The miscellaneous application is accordingly disposed of.

15. All amounts that have been paid by Andhra Prabha publications to the Government shall be refunded by the Government to Andhra Prabha publications within a period of twelve weeks from today, with Simple Interest at 6 per cent per annum.

Ankit Gyan

M. A. disposed of.