

HIGH COURT FOR THE STATE OF TELANGANA

WRIT PETITION No.13759 OF 2008

M/s. Margadarsi Chit Fund Limited,
Registered office at 5-10-195, Fatehmaidan Road,
Hyderabad – 500 004,
Represented by Authorised Signatory and
G.P.A.Holder Sri V.Govinda Rao
S/o Late Manikyan, aged about 76 years,
R/o 17/a, Sai Master Apartment, Flat No.9,
Vengalraonagar, Hyderabad - 38

....Petitioner

VERSUS

The State of Andhra Pradesh,
The Department of Revenue,
Secretariat, Saifabad, Hyderabad,
Rep., by The Principal Secretary and three others.

... Respondents

DATE OF JUDGMENT PRONOUNCED: .07.2024

THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No
2. Whether the copies of judgment may be marked to Law Reporters/Journals? Yes/No
3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? Yes/No

J. SREENIVAS RAO, J

THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

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! Counsel for Petitioner : B.Nalin Kumar

^ Counsel for Respondents : G.P. for Revenue

< GIST:

> HEAD NOTE:

? CITATIONS:

1. 2024 (2) ALD 330 (TS)

HON'BLE SRI JUSTICE J. SREENIVAS RAO**WRIT PETITION No.13759 of 2008****ORDER:**

This writ petition is filed for the following relief:

“to issue a writ of certiorari or other appropriate order or direction in the nature of a Writ calling for the records resulting in the order dated 17.05.2008 in proceedings No.E4/2206/2007, passed by the Joint Collector-I, Ranga Reddy District and quash the same as arbitrary, illegal, void and contrary to the provisions of A.P. Assigned Land Prohibition of Transfers Act,1977 and violative of Article 14 and 300-A of the constitution of India, principles of natural justice and consequently restrain the respondents from interfering with the possession of the petitioner over the land Admeasuring 2 acres in Sy.No.278/79/A, 278/79/AA and 278/79E situated at Polakampally Village, Ibrahimpatnam Mandal, Ranga Reddy District”.

2. Heard Sri B.Nalin Kumar, learned Senior Counsel appearing on behalf of petitioner and learned Assistant Government Pleader for Revenue appearing on behalf of respondent Nos.1 to 4.

3. Learned counsel for the petitioner submits that petitioner is absolute owner and possessor of agricultural land to an extent of Acs.2.00 in Survey No.278/79/A, 278/79/AA, 278/79E situated at Polkampally village, Ibrahimpatnam Mandal, Ranga Reddy District and the same was purchased from B.Sarojamma and B.Rajashekar Reddy and Sri B.Sudhakar Reddy through registered sale deeds *vide* document No.885/98 and 887/98 dated 20.05.1998

respectively and since then the petitioner has been in possession and enjoyment of the subject property. He further submits that originally the above said property was assigned in favour of Sri B.Pratap Reddy and B.Sudhakar Reddy on 12.08.1968 on payment of market value and since then they have been in possession and enjoyment of the subject property and their names were mutated in the Revenue records, Pattadar Passbooks and title deeds were issued and the above said persons are not land less poor persons and they are having their own lands to an extent of Acs.11.24 guntas in Polkampally village and the same was reflected in Chowphasla for the year 1970-71.

3.1. He further submits that on 11.11.1991 the Mandal Revenue Officer addressed a letter to Sub-Treasury Officer, Ibrahimpatnam calling for information relating to remittance of market value for assignment of subject land with particulars of challans. On 12.11.1991, the Sub-Treasury Officer confirmed the payment of amount of Rs.600/- by the assignee B.Pratap Reddy. After his death his wife B.Sarojamma and his son B.Rajashekar Reddy got pattadar pass books and title deeds to an extent of Acs.1.00 and Sri B.Sudhakar Reddy got pattadar pass book and title deed in respect of remaining extent of Acs.1.00. On 25.10.1997, the then Mandal Revenue

Officer addressed a letter to the Sub-Registrar certifying that the subject land is a patta land and not government land. The petitioner after due verification of the above said records purchased the subject property by paying valuable sale consideration and the petitioner is a bonafide purchaser.

3.2. Learned Senior Counsel further submits that, respondent No.4 issued notice in Form-I on 14.03.2005 exercising the powers conferred under Rule 3 of A.P. Assigned Lands(Prohibition of Transfer) Rules, 1977(Rules for brevity) directing the petitioner to submit explanation as to why he should not be evicted from the subject property within a period of fifteen (15) days on the alleged ground that petitioner contravened the provisions of sub-Section (2) of Section 3 of A.P.Assigned Lands (Prohibition of Transfers) Act, 1977(Act for brevity). Pursuant to the same, the petitioner submitted detailed explanation denying allegations made thereunder inter-alia contending that subject property is not an assigned land, the petitioner's vendor has purchased the property from Government by paying market value and the then Mandal Revenue Officer also issued certificate stating that subject property is a private patta land and requested respondent No.4 to drop the proceedings.

3.3. He also submits that petitioner submitted application requesting respondent No.4 to supply the certified copies of nine(9) documents which are mentioned as below:

(i) Order of the MRO, Ibrahimpatnam sanctioning assignment of land to B. Pratap Reddy in Sy.No. 278/79 of Polkampally village.

(ii) Assignment patta certificate granted to B. Pratap Reddy in Sy.No.278/79 of Polkampally village.

(iii) Application filed by B. Pratap Reddy for grant of land in Sy.No.278/79 of Polkampally villaes.

(iv) Resolution of Assignment Review Committee pertaining to assignment of the above land.

(v) Chowfasla pertaining to B. Pratap Reddy for the year during which assignment was granted to him.

(vi) Faisalpatti in which the order of assignment of above land was implemented.

(vii) Tippan pertain setwar issued for the above assigned land of B. Pratap Reddy.

(viii) Supplementary setwar issued for the above assigned land of B. Pratap Reddy.

(ix) Order of MRO, Ibrahimpatnam sanctioning mutation of the above land in favour of (1) Rajasekhar Reddy S/o Pratap Reddy (278/79/A); (2) B. Sarojani W/o Pratap Reddy (278/79/AA) and (3) B. Sudhakar Reddy S/o Narasimha Reddy (278/79/E)

3.4. He further submits that respondent No.4 without furnishing the above said documents and without considering the explanation submitted by the petitioner and without verifying the records passed the resumption order on 15.07.2005, questioning the same, petitioner filed appeal before respondent No.3 and the appellate authority also

without considering the grounds of appeal and contentions of the petitioner dismissed the appeal on 20.01.2007. Aggrieved by the same, petitioner filed further appeal and respondent No.2 also without considering the contentions of the petitioner and the grounds raised in the appeal, erroneously dismissed the appeal by its order dated 17.05.2008.

3.5. Learned senior counsel vehemently contended that revenue authorities have granted assignment patta in favour of Sri B.Pratap Reddy and Sri B.Sudhakar Reddy on 12.08.1968 on payment of market value. Hence, respondent No.4 is not entitled to initiate the proceedings under the provisions of Act. He further contended that respondent No.4 without following the mandatory procedure prescribed under Rule 3 of Rules passed the resumption order *vide* proceedings No.1548/2005, dated 15.07.2005 and the same is contrary to the provisions of the Act and Rules made thereunder. Respondent Nos.2 and 3 without considering the grounds raised in the memorandum of grounds of appeals simply confirmed the order of the primary authority and the same is not permissible under law.

3.6. In support of his contentions, learned Senior counsel relied upon the judgment of ***B.Halya Rani Vs. Special Grade Deputy Collector and Revenue Divisional Officer, Ranga***

***Reddy, Hyderabad and others*¹.**

4. *Per contra*, learned Assistant Government Pleader for Revenue basing on the written instructions furnished by the Additional Collector (Revenue), Ranga Reddy District dated 03.07.2024 submits that the subject land is a government assigned land and the same is not alienable. Respondent No.4 after following the due procedure as contemplated under the provisions of the Act and Rules rightly passed the resumption order on 15.07.2005 and the said order was confirmed by the respondent No.3 on 20.01.2007 as well as respondent No.2 on 17.05.2008. The petitioner is not a land less poor person and is not entitled to claim any relief much less the relief sought in the writ petition.

5. Having considered the rival submissions made by respective parties and after perusal of the material available on record, it reveals that the petitioner is claiming rights over the property basing on the registered sale deed document bearing 887/98, executed by Sri B.Sarojamma and B.Rajashekar Reddy to an extent of Acs.1.00 and registered sale deed *vide* document bearing No.885/98 executed by B.Sudhakar Reddy to an extent of Acs.1.00 respectively on 20.05.1998.

¹ 2024 (2) ALD 330 (TS)

6. It further reveals that the petitioner's vendors are claiming the rights over the property pursuant to the assignment patta granted by the revenue authorities on 12.08.1968 in favour of B.Pratap Reddy and B.Sudhakar Reddy who are non other than brothers. After death of B.Pratap Reddy, B.Sarojamma and B.Rajashkear Reddy got pattadar passbooks to an extent of Acs.1.00 and B.Sudhakar Reddy, got pattadar passbook and title deed to an extent of Acs.1.00. It further reveals that the then Mandal Revenue Officer addressed a letter to Sub-Registrar on 25.10.1997 wherein it is mentioned that the subject land is a patta land and not a Government land.

7. Respondent No.4 initiated the proceedings exercising the powers conferred under the Act after lapse of more than six(6) years from the date of purchasing the subject property and issued notice dated 14.03.2005 directing the petitioner to submit explanation as to why he should not be evicted from the subject property on the ground that he contravened the provisions of the Sub-Section (2) of Section 3 of the Act. Pursuant to the same, petitioner has submitted explanation on 09.05.2004 denying the allegations and requested him to drop the proceedings and also requested him to furnish nine (9) documents which are mentioned '*supra*'. It appears from the

pleadings of the petitioners that the respondent No.4 has not furnished the said documents. However, he passed resumption order dated 15.07.2005 and the same was confirmed by respondent Nos.3 and 2 in the appeals.

8. It is pertinent to mention here that as per Rule 3 of Rules respondent No.4 ought to have issued notices under Form-I and Form-II to assignee as well as purchaser. It is relevant to extract Rule 3 of Rules which reads as follows:

“3. Procedure for eviction of the Transferee and taking possession and restoration of Assigned Lands: *The District Collector or the Authorised Officer shall, before taking action under clauses (a) and (b) sub-section (1) of Section 4 of the Act, issue notices in Form No.I and Form No.II to the persons who have transferred and also to the persons who have acquired any assigned land in contravention of the provisions of sub-section (2) of Section 3 of the Act. The notices shall be served by delivering a copy on transferor and transferee or some adult male member of the family of such transferor or transferee at their usual place of abode or to their authorised agent or by affixing a copy thereof at some conspicuous place of their last known place of residence or on some conspicuous part of the assigned land. After the expiry of (fifteen) 15 days specified in the notice, the District Collector or the Authorised Officer shall consider the representation, if any, received with reference to the said notice and pass such order as he thinks fit and proper. If it is held that the provisions of sub-sections (1) and (2) of Section 3 of the Act, have been contravened in respect of any assigned land, a copy of the order shall be communicated to the Village Officer concerned under whose territorial jurisdiction that land is situated for taking possession of the land and thereupon the land shall be disposed of in accordance with the provisions of Section 1 of the Act.”*

9. The above said rule clearly mandates that the authorized officer before taking action under clauses (a) and (b) sub-section(1) of Section 4 of the Act, to issue notice under

Form-I and Form-II to the assignee and the purchaser of the land.

10. In ***B.Halya Rani Vs. Special Grade Deputy Collector and Revenue Divisional Officer supra***, this Court held that passing resumption order without issuing notice to the original assignee as required under the Act and Rules, is a clear violation of the Act as well as Rule 3 of Rules.

11. In the case on hand, respondent No.4 has not issued any notice to the original assignee and only issued notice to the petitioner, without following the mandatory procedure duly prescribed under the Act and Rules and passed the resumption order dated 15.07.2005 and the same is clear violation of the "Rule 3" of the Rules. The appellate authorities also without considering the same dismissed the appeals. It is also relevant to place on record that appellate authorities while exercising the quasi-judicial appellate powers under the enactment, ought to have considered the grounds raised by the parties and passed orders by giving reasons.

12. It is also relevant to place on record that respondent No.2 has framed two issues while passing the impugned order which read as follows:

- 1) Whether the land in question is Government

Land or not?

2) Whether the land in question was assigned to the predecessors in interest of the appellant subject to the condition of non-alienation and whether thereby the land in question falls within the ambit of A.P.Assigned Lands(POT) Act or not?

13. In so far as first issue is concerned, respondent No.2 without going through the entire written arguments filed by the petitioner extracted one line from paragraph No.18 holding that the petitioner admitted in his written arguments that the subject land is a government land. After perusal of the written arguments filed by the petitioner, it reveals that the petitioner had submitted that the subject land is a government land and the same was assigned in favour of the petitioner's vendor on payment of market value and respondent No.4 is not entitled to initiate the proceedings under the provisions of the Act and the same are not applicable. Hence, the reasoning given by respondent No.2 in the impugned order in respect of issue No.1 is contrary to the written arguments filed by the petitioner.

14. It is already stated '*supra*' that respondent No.4 without following the mandatory procedure prescribed under Rule 3 of the Rules passed resumption order dated 15.07.2005 and the same is contrary to the provisions of the Act and Rules made thereunder.

15. For the foregoing reasons, the impugned order passed by respondent No.2, dated 17.05.2008 confirming the orders of respondent Nos.3 dated 20.01.2007 and respondent No.4 dated 15.07.2005 are liable to be set aside. Accordingly set aside. However, this order will not preclude the authority to proceed further, in accordance with law.

16. Accordingly, the writ petition is allowed. No order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in the writ petition stand closed.

JUSTICE J. SREENIVAS RAO

12th July, 2024

Note: L.R.copy to be marked: 'Yes'

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