

HIGH COURT FOR THE STATE OF TELANGANA

WRIT PETITION No.467 OF 2009

D.Satyanarayana, S/o.Rangaiah, aged about 56 years,
Cultivation & Agricultural Coolie, R/o. Ahmedguda,
(Bandlaguda), Keera Mandal, Ranga Reddy District.

....Petitioner

VERSUS

- 1) Joint Collector, Ranga Reddy District, Hyderabad.
- 2) Special Grade Deputy Collector and Revenue
Divisional Officer, East Division, Ranga Reddy District.
- 3) Tahsildar (M.R.O.),
Keesara Mandal, Ranga Reddy District.

... Respondents

DATE OF JUDGMENT PRONOUNCED: 13.12.2023

THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

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| 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**+ WRIT PETITION No.467 OF 2009**

% Dated 13.12.2023

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... Respondents

! Counsel for Petitioner : Mr.G.Rama Rao

^ Counsel for Respondent Nos.1 to 3 : G.P. for Assignment

< GIST:

> HEAD NOTE:

? CITATIONS:

1. (1990) 4 SCC 594
2. 2009 (9) SCC 489

HON'BLE SRI JUSTICE J. SREENIVAS RAO**WRIT PETITION No.467 of 2009****ORDER:**

This Writ Petition is filed seeking the following relief:-

“to issue Writ or Direction one in the nature of Writ of Certiorari calling for the records relating to and connected with the order the order dt.6.12.2008 in Case No.E5/429/2008 passed by the 1st respondent by confirming the order of the 2nd and 3rd Respondents and quash the same.”

2. Heard Sri Md.Islamuddin Ansari, learned counsel representing Sri G.Rama Rao, learned counsel for the petitioner and learned Assistant Government Pleader for Assignment appearing on behalf of respondent Nos.1 to 3.

3. Learned counsel for the petitioner submits that as the petitioner's father namely D.Rangaiah is landless poor person, the then Mandal Revenue Officer, has granted assignment patta after following due process as contemplated under the provisions of Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act') on 14.08.1967 to an extent of Ac.2.00 gts in Sy.No.23/F situated at Ahmedguda Village, Keesara Mandal, Ranga Reddy District and since then he was in possession and enjoyment of the said property with

absolute rights and his name was mutated in the revenue records and issued pattadar passbook and title deed. After his father's death, petitioner is continuing in the said property as legal heir and also as successor. Respondent No.3 without issuing any notice and without giving any opportunity to the petitioner passed the impugned resumption order vide proceedings No.B/ 1211/2005-1, dated 25.06.2005 on the alleged ground that during the course of physical verification, the then Mandal Revenue Officer came to know that the assignee transferred the subject property in favour of Mr.C.Chenna Mallaiah.

3.1 He further submits Mr.C.Chenna Mallaiah submitted detailed explanation dated 12.04.2005 to respondent No.3, specifically stating that the assignee has availed loan for an amount of Rs.3,00,000/- and kept pattadar passbook towards security only and he repaid the said amount on 25.02.2003 with interest to him and he is nothing to do with the subject land. Respondent No.3, without considering the said explanation, passed the resumption order on the ground that petitioner's father violated the assignment conditions.

3.2 He also contended that as on the date of initiation of proceedings, the original assignee i.e., father of the petitioner is no more, and his father not alienated the property to anyone nor violated the assignment conditions.

3.3 He further contended that, questioning the above said order dated 25.06.2005, petitioner had filed an appeal before respondent No.2 invoking the provisions of Section 4(A) of the Act. The Appellate Authority without considering the grounds raised in the appeal simply confirmed the order of the primary authority i.e., respondent No.3 on 24.09.2007. Aggrieved by the same, petitioner filed further appeal before respondent No.1 and the said authority also simply dismissed the appeal on 06.12.2008. The impugned order passed by respondent No.1 confirming the order of respondent Nos.2 and 3 is contrary to the provisions of the Act, and also clear violation of principles of natural justice.

4. *Per contra*, learned Assistant Government Pleader submits that original assignee violated the terms and conditions of assignment patta. Hence, respondent No.3 rightly initiated the proceedings under the Act after following due procedure and passed the resumption order dated

25.06.2005 and the said order was confirmed by respondent No.2 and also respondent No.1, and there is no illegality or irregularity in the said order.

5. Having considered the rival submissions made by respective parties and after going through the material available on record, it clearly reveals that the then Mandal Revenue Officer had granted assignment patta in favour of the father of the petitioner on 14.08.1967 in respect of the land to an extent of Ac.2.00 gts in Sy.No.23/F situated at Ahmedguda Village, Keesara Mandal, Ranga Reddy District and since then he was in possession and enjoyment of the said property and after his death, petitioner is claiming rights over the property as a successor.

6. It further reveals that respondent No.3 had initiated the proceedings under the Act on the ground that the assignee violated the terms and conditions of assignment patta and transferred the rights over the subject property in favour of Mr.C.Chenna Mallaiah. Pursuant to the notice, Mr.C.Chenna Mallaiah submitted detailed explanation on 12.04.2005, wherein he categorically stated that the assignee has taken an amount of Rs.3,00,000/- from him for his family members by keeping pattadar passbook as security and he repaid the said amount

along with interest and he is nothing to do with the subject property. Respondent No.3 passed the resumption order on 24.09.2007, without taking into consideration of the above said explanation and without giving any reasons. The impugned order reveals that respondent No.3 has not issued any notice to the petitioner nor to assignee nor given opportunity to defend his claim, passed order behind back of the petitioner.

7. Questioning the said order, petitioner filed statutory appeal before respondent No.2 invoking the provisions of Section 4-A(2) of the Act, wherein he specifically raised the ground that respondent No.3 has not issued any notice to petitioner nor original assignee before passing resumption order dated 25.06.2005 and the appellate authority/respondent No.2 without considering the grounds raised by the petitioner dismissed the appeal on 24.09.2007, and respondent No.1 also simply confirmed the order of the appellate authority, without assigning any reasons.

8. It is settled principle of law, that the authorities while exercising the quasi judicial powers under the Act, ought to have considered the

contentions of the respective parties and grounds raised in the appeal and ought to have pass orders by giving reasons. In the case on hand, neither respondent No.2 nor respondent No.1-appellate authorities have not considered the grounds raised by the petitioner, while confirming the orders of primary authority. Hence, the impugned order passed by respondent No.1 confirming the order of respondent No.2 and 3 is contrary to law and also clear violation of principles of natural justice.

9. It is very much relevant to place on record that in *S.N.Mukherjee vs. Union of India*¹ the Hon'ble Supreme Court held that even administrative action must be supported by reasons and the reasons, must be recorded except in cases where the requirement has been dispensed with expressly or by necessary implication.

10. It is also relevant to place on record that in *Allwyn Housing Colony Welfare Association vs. Government of Andhra Pradesh and others*², the Hon'ble Apex Court specifically held that no order adverse to party should be passed without hearing him. In the case on hand, the specific claim of the petitioner is that respondent No.3 before passing

¹ (1990) 4 SCC 594

² 2009 (9) SCC 489

the impugned order has not issued any notice and not given opportunity to the petitioner.

11. In view of the foregoing reasons as well as the law laid down by the Hon'ble Apex Court, the impugned order passed by respondent No.1 dated 06.12.2008 confirming the orders of respondent No.2 dated 24.09.2007 and respondent No.3 dated 25.06.2005 are liable to be set aside and accordingly set aside. However, respondent No.3 is granted liberty to take appropriate steps in accordance with law, if so he is advised.

12. In the result, the Writ Petition is allowed accordingly. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE J. SREENIVAS RAO

Date: 13.12.2023

LR copy to be marked.

B/o

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