

HON'BLE SRI JUSTICE S.V. BHATT

WRIT PETITION No.24198 OF 2009

ORDER:

Heard learned counsel for the petitioners and the Government Pleader.

With the consent of the learned counsel for the petitioners, the writ petition is taken up for final disposal.

The petitioners pray for Mandamus declaring the order of Revenue Divisional Officer dated 15.09.2009 and the order of primary authority dated 20.08.2007, as illegal and *ab initio*.

The issue arises under the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act')

Through the order impugned, the 3rd respondent directed restoration of assigned land in an extent of Ac.0.48 cents in R.S.No.128/4B and 5A of Manuru Village of Eluru Mandal, West Godavari District to original assignee.

The order of 3rd respondent is assailed both in law and fact. Foremost objection is violation of principles of natural justice and without conducting a proper enquiry in accordance with the provisions of the Act the order impugned is passed.

This Court through order dated 10.11.2009 granted interim suspension of impugned orders.

The respondents filed counter affidavit and also a petition to

vacate the interim order.

I have perused the averments in the counter affidavit. The respondents, while answering the allegations in the writ affidavit, have further stated as follows:

“I further respectfully submit that if the petitioners are really poor and come within the landless poor as defined under the Act, they are at liberty to approach the concerned Tahsildar for assignment of land under the Rules but they cannot insist the authorities for restoration of these lands. Moreover, the lands in question are classified as wet and eligibility for assignment is only Ac.2.50 cts. to each assignee. Hence, the interim orders need to be vacated.”

From the above, it is clear that the petitioners are also entitled for grant of assignment in their favour. Be that as it may, at the time of hearing, the learned Government Pleader submits that during the pendency of the writ petition, a few changes have taken place. The petitioners on the one hand and the successors-in-interest of original assignee on the other are in enjoyment of respective portions of land according to the arrangement arrived between parties and there is no dispute as on date. Having regard to the above stand, it is required to be stated that to legalise or formalise the enjoyment of the parties, the Tahsildar/4th respondent is required to pass appropriate orders in the matter. With the above in view, the writ petition is ordered as follows:

- (a) The petitioners are given liberty to file representation within six weeks from the date of receipt of a copy of this order before the 4th respondent for passing appropriate orders, as noted above.
- (b) The 4th respondent passes appropriate orders within a further period of three months from the date of receipt of the representation. Till final orders are passed by the 4th

respondent, the interim order granted by this Court shall be
in force.

No order as to costs. Miscellaneous petitions pending, if any, in
the writ petition shall stand closed.

S.V.BHATT, J

Date:29.12.2014

Stp