

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 22350 of 2009

Date : 01.05.2015

Between :

Smt. Methuku Rekha W/o. Bhaskar Swamy,

Aged 38 years, Occu: Housewife, R/o.H.No.2-3-115,

Boyawada, Karimnagar.

... Petitioner

and

The District Collector, Karimnagar and

others.

... Respondents

The Court made the following:

**HONOURABLE SRI JUSTICE P. NAVEEN RAO**

**WRIT PETITION No.22350 of 2009**

**ORDER:**

Heard Sri V.Ravi Kiran Rao, learned counsel for petitioner and learned Government Pleader for Revenue (T).

2. Petitioner claims to be the owner and in possession of land in Sy.No.132/AA admeasuring 1085.21 square yards situated at Rekurthi Village, Karimnagar Mandal and District. Petitioner claims to have purchased the same through two different registered sale deeds vide document Nos.3232/2006 and 3241/2006 dated 13.03.2006. Petitioner claims to have verified the revenue records before purchasing the said land and as per the revenue records, vendors of the petitioner purchased the land in the year 2005 and 2006 by means of registered sale deeds. On verification of the records of Joint Sub-Registrar-I, Karimnagar, Survey No.132 was not shown in the list of assigned lands. Thus, all the precautions required under law were taken before purchasing the land. Apprehending that the 3<sup>rd</sup> respondent was taking steps to dispossess the petitioner from the above land without following due procedure of law, this writ petition was instituted.

3. It is the case of the petitioner that she is a *bona fide* purchaser of the subject land after due verification of revenue and Registration records on the status of land and having fund that it is private free hold land, purchase was made. Where as the

authorities seem to treat the same as assigned land and seeking to evict the petitioner without following due process of law. No notice or opportunity was offered before seeking to evict the petitioner.

4. It is the further case of the petitioner that there were several such purchases made in Sy.No.132 and in adjacent survey numbers. Some of the neighbouring property owners were sought to be evicted. Aggrieved thereby, W.P.No.20405 of 2007 and batch of Writ Petitions were filed. The said writ petitions were disposed of by order dated 06.10.2007 granting liberty to the petitioners to file appeals against the orders of original authority. Learned counsel contended that appeals filed before the Revenue Divisional Officer, Karimnagar were dismissed by order dated 02.02.2008. Aggrieved thereby, revisions were filed before the Revisional authority but those revisions were dismissed on the ground of delay in filing the revisions. Aggrieved thereby, W.P. Nos.21361, 21993 and 21994 of 2009 are filed, which Writ Petitions are heard along with this Writ Petition.

5. It is contended that even assuming that the land is classified as assigned land and therefore purchase made by the petitioner is erroneous, before evicting the petitioner, petitioner is entitled to notice and opportunity. The assigned lands are governed by the Assigned Land (Prohibition of Transfer) Act 1977 and the A.P. Assigned Land (Prohibition of Transfer) Rules 2007 made there under. As per Rule 3 of the Rules, detailed procedure is contemplated before issuing eviction proceedings against the person in possession of the land claimed as assigned. No such notice was issued and on that ground alone the impugned action is liable to be set aside.

6. The contentions of the petitioner are denied by the respondents. According to the respondents, the subject property which petitioner alleged to have purchased was assigned to a landless poor. Having come to know that assigned land was sold and some other persons are in illegal occupation of the said land, in violation of the assignment patta and the provisions of the Act, 1977, proceedings were initiated to dispossess the occupants in accordance with Act, 1977. Notice dated 20.1.2007 was served on Sri Astapuram Komuraiah -legal heir of the original assignee. Notice in form I was issued on 30.3.2005 in the name of the vendor of petitioner and in the

name of the vendor's vendor of the petitioner and was served as per the procedure contemplated. Even according to the statement of the petitioner, petitioner purchased the subject land in the year 2006 i.e., after issuance of the above notices. There after notices in form I and II dated 1.4.2007 were taken out in accordance with the provisions of the Act duly affixing notice on the land in Survey No. 132 and on the notice board of the Gram Panchayat, as whereabouts of the purchasers of different pieces of land were not available. As no objections or claims were filed within the time granted, orders for resumption were passed on 31.8.2007 and on the same day, physical possession was taken.

7. The relevant provisions of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short, 'Act, 1977') are Sections 3 and 4. They read as under:

**Section 3: Prohibition of transfer of assigned lands:**

(1) Where before or after the commencement of this Act any land has been assigned by the Government to a landless poor person for purposes of cultivation or as a house-site then, notwithstanding anything to the contrary in any other law for the time being in force or in the deed to transfer or other document relating to such land, it shall not be transferred and shall be deemed never to have been transferred; and accordingly no right or title in such assigned land shall vest in any person acquiring the land by such transfer.

(2) No landless poor person shall transfer any assigned land, and no person shall acquire any assigned land, either by purchase, gift, lease, mortgage, exchange or otherwise.

(3) Any transfer or acquisition made in contravention of the provisions of sub-section (1) or sub-section (2) shall be deemed to be null and void.

(4) The provisions of this section shall apply to any transaction of the nature referred to in sub-section (2) in execution of a decree or order of a civil court or of any award or order of any other authority.

(5) Nothing in this section shall apply to an assigned land which was purchased by a landless poor person in good faith and for valuable consideration from the original assignee or his transferee prior to the commencement of this Act and which is in the possession of such person for purposes of cultivation or as a house-site on the date of such commencement.

**Section 4 - Consequences of breach of provisions of Section 3:**

(1) If in any case, the District Collector or any other officer not below the rank of Mandal Revenue Officer, authorised by him in this behalf, is satisfied that the provisions of sub-section (1) of Section 3, have been contravened in respect of any assigned land, he may, by order--

(a) take possession of the assigned land, after evicting the person in possession in such manner as may be prescribed; and

(b) restore the assigned land to the original assignee or his legal heir, or where it is not reasonably practicable to restore the land to such assignee or

legal heir, resume the assigned land to Government for assignment of landless poor persons in accordance with the rules for the time being in force :

Provided that the assigned land shall not be so restored to the original assignee or his legal heir more than once, and in case the original assignee or his legal heir transfers the assigned land again after such restoration, it shall be resumed to the Government for assignment to any other landless poor person.

8. The statement of objects and reasons for enacting Act, 1977 clearly brings out that the Government was alarmed by alienation of lands assigned to the landless poor defeating the very objective of assignment of lands. The objective was to make the landless poor self sufficient, enable them to cultivate their own lands and earn a living for the family. If right to alienate lands so assigned is conferred on Such persons, they would be induced to part with the land for small consideration, making them once again landless poor and dependent on the well to do land lords. Government also noticed that these lands are knocked away by well to do persons by inducing the landless poor on paltry considerations. In order to prevent such transfers and to protect the interests of the land less poor in whose favour the lands are assigned, the enactment is brought in. Enactment seeks to prohibit alienation of land assigned to a landless poor and also imposes penal consequences on persons who acquire such assigned lands. The land in issue in this writ petition is close to Karimnagar town and surrounded by urbanisation. The real estate developers with an objective to make quick money by converting the land into residential colony induced the landless poor to part with the land.

9. Section 3 of the Act prohibits such transfers. It prohibits against acquiring assigned land either by way of purchase, lease, gift, mortgage, exchange or by any other means. As per Sub-section 3 of Section 3, those transactions are deemed to be null and void. When it comes to the notice of the District Collector or any officer designated by him not below the rank of Mandal Revenue Officer, the concerned officer is competent to take immediate steps to take possession of the land; evict the person in possession. It empowers the competent authority to forfeit any crop or produce grown or any building or other constructions erected. On such taking possession, consequential steps can be taken by the competent authority. Before taking such decision, the person concerned is required to be put on notice and given an opportunity of hearing. In the context of the provisions contained in the Act, it is a summary inquiry only to ascertain whether the land assigned to a landless poor is in

possession by any other person. The burden lies on the person in possession to establish that it is not an assigned land/ though assigned but not burdened with condition of non-alienation and therefore provisions of Act, 1977 are not attracted. Sub Section 5 of Section 3 also enables such person to satisfy the competent authority that the person who purchased such land is also a land less poor and such purchase was made in good faith and for valuable consideration and such purchase was made prior to commencement of the Act, 1977 and he continues to be in possession for the purposes of cultivation. In such a case penal consequences of Section 3 do not attract.

10. The averments made in counter affidavit, clearly show that by the time writ petition is instituted, orders of resumption and taking over possession were carried out by following due procedure. Neither the order of resumption nor proceedings taking possession are challenged by petitioner, vendor of petitioner or vendor's vendor of petitioner. The assertion of the respondents that due procedure was followed and notices were issued to the family of the assignee, vendor and vendor's vendor much prior to purchase made by the petitioner are not denied. Thus, the claim of the petitioner that petitioner is apprehending dispossession without following due process of law is not valid. Petitioner was already dispossessed and apparently due procedure was followed. None of the proceedings initiated under the Act and the Rules there under are under challenge.

11. No material is brought on record to show that the assignee was entitled to alienate the land and, therefore, purchase was validly made. No material is brought on record by the petitioner to contend that she is entitled to take advantage of the provision contained in Section 3(5) of the Act. Purchase made by the petitioner was in contravention of the Act, 1977.

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12. It is also appropriate to notice that W.P. Nos. 21361, 21993 and 21994 of 2009 [which are also heard along with this writ petition] are filed challenging the orders of Revisional Authority dismissing the revisions filed by the petitioners on the ground of delay. In the said cases, appeals were filed by the petitioners against orders of resumption of the land and dispossession. Said appeals were dismissed by the

Appellate Authority. Aggrieved thereby revision was filed and the said revision was dismissed on the ground of delay in filing revision. In the said Writ Petitions, the decision of Revisional authority rejecting the revision on the ground of delay is upheld. The petitioners therein are similarly situated; the subject lands in those Writ Petitions are adjacent to the subject land in this case. Having regard to the factual background, it cannot be said that petitioner was unaware of the proceedings taken against persons concerning the subject land.

13. Hence, I see no merit in the writ petition. Accordingly, the writ petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions if any pending in the writ petition shall stand closed. There shall be no order as to costs.

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**JUSTICE P.NAVEEN RAO**

Date: 01.05.2015

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HONOURABLE SRI JUSTICE P. NAVEEN RAO

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