

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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Civil Revision Petition No.4740 of 2015

ORDER:

This revision, under Article 227 of the Constitution of India, is preferred against the order passed by the Additional Junior Civil Judge, Bheemunipatnam, in I.A.No.168 of 2015 in O.S.No.178 of 2009 dated 08.06.2015.

The respondent herein filed O.S.No.178 of 2009 seeking eviction of the petitioner herein from the land assigned in his favour. The petitioner herein contended that the subject property had been sold to him under a possessory agreement of sale, which was executed on 07.09.2011. He filed I.A.No.168 of 2015, under Section 35 of the Indian Stamp Act, to send the document to the District Registrar, Visakhapatnam to impound the same under the Indian Stamp Act.

In the order under revision, the Court below noted the contention of the respondent-plaintiff that the land, under the agreement of sale, was assigned by the Government to the respondent herein; he, being the assignee of the Government land, had no right to alienate the said land; and the possessory agreement of sale document was void ab-initio. The Court below also observed that the property, covered by the possessory agreement of sale, was assigned land; the petitioner-defendant had filed the same to prove his right over the suit schedule property, which was for a collateral purpose; though he had filed a petition to impound the document, he had, himself, contended that the property, covered under the document, was assigned land; the document was void ab-initio; and it need not be sent to the District Registrar, Visakhapatnam, for the purpose of impounding.

Section 3(1) of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 stipulates that, where before or after the commencement of the Act, any land has been assigned by the Government to a landless poor person for the 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. Under Section 3(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. Section 3(3) stipulates that any transfer or acquisition, made in contravention of the provisions of sub-section (1) or sub-section (2) of Section 3, shall be deemed to be null and void.

It is not in dispute that the subject land is assigned land. As a result, even if the respondent-plaintiff had transferred the land in favour of the petitioner-defendant, such a transfer is in contravention of Section 3(1) and 3(2) of the Act, and must be deemed to be null and void.

Sri M.P.Chandramouli, Learned Counsel for the petitioner, would draw attention of this Court to clause (4) of Appendix-II to the assignment deed, to contend that the assignee has been conferred the power to alienate the subject land. Condition No.4, on which reliance is placed, prohibits the grantee from alienating the land without the sanction, in writing, of the Government or of the authority to whom the power, to accord sanction in this behalf, may be delegated. It is not even the case of the petitioner herein, in the written statement filed before the Court below, that either the Government, or the authority to whom the power to accord sanction has been delegated, had sanctioned in writing alienation of the said land. The order of the Court below does not suffer from any patent illegality necessitating interference in proceedings under Article 227 of the Constitution of India.

The Civil Revision Petition fails and is, accordingly, dismissed. The Miscellaneous Petitions, if any pending, shall also stand dismissed. No costs.

(RAMESH RANGANATHAN, J)

Date:13.11.2015.

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