

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 5787 of 2015

ORDER:

The petitioner challenges the order dated 26.12.2014 passed by the 3rd respondent-Tahsildar under the A.P. Assigned Lands (Prohibition of Transfers) Rules, 2007 (for short, 'the Rules').

2. The petitioner's case, in brief, is that he was granted patta in an extent of Ac.0-13 cents and Ac.2-82 cents in Survey Nos.1129/1 and 1129/2 of Basinikonda village, Madanapalle Taluk, Chittoor district, vide A.M.No.13/4/1999 dated 20.10.1989. On an information that he violated the terms of patta, the 3rd respondent issued notice dated 04.12.2014 under the Rules calling for an explanation from the petitioner to show cause as to why the lands should not be resumed by the Government by cancelling the assignment. The petitioner submitted his explanation on 15.12.2014, but the impugned order came to be passed, directing resumption of lands.

3. Learned Assistant Government Pleader submits that pursuant to the impugned order, possession was taken over by the Government. He further submits that, against the impugned order, there is a remedy provided under Section 4(A) of the A.P. Assigned Lands (Prohibition of Transfers) Act, by way of an appeal to the Revenue Divisional Officer, and hence the writ petition is not maintainable.

4. Sri V.S.R. Anjaneyulu, learned counsel for the petitioner, submits that the impugned order came to be passed at the instance of 5th respondent. He submits that even before the impugned order was passed, the respondent authorities came and damaged the property; and no notice was issued to the petitioner and the impugned order itself came to be served on the petitioner on 21.02.2015. The counsel further submits that the petitioner has filed an appeal before the appellate authority, and the same is pending.

5. A perusal of the impugned order *prima facie* reveals that it is a reasoned order and the same was passed after consideration of the explanation dated 15.12.2014 submitted by the petitioner. Though one R.V.Karnan, who is the Sub-Collector, Madanapalle, Chittoor district, is made as a party-respondent by name, I am not inclined to express any

opinion with regard to the allegations of the petitioner that it is at the instance of the 5th respondent the entire proceedings have been initiated and carried out, for the reason that what exactly the 5th respondent has instructed is not discernible from the pleadings. At any rate, the same is irrelevant at this point of time, especially, on account of the fact that a final order has been passed on 26.12.2014 which is appealable. Considering the fact that the impugned order itself came to be served on the petitioner on 21.02.2015, as is evident from the copy of the order filed before this Court, the right of appeal conferred on the petitioner by the Statute cannot be nullified by implementing the order on the same day of passing the order, even before serving it on the petitioner, thereby virtually making the appeal provision an illusory one.

6. In that view of the matter, the impugned order dated 26.12.2014 and also the resumption of lands, is suspended for a period of four weeks from today, giving liberty to the petitioner to approach the appellate authority by filing an appeal along with a Stay Petition. Till such time the Stay Petition is disposed of by the appellate authority, the suspension of the impugned order dated 26.12.2014 shall continue.

7. With the above direction, the writ petition is disposed of. No order as to costs. Miscellaneous petitions, if any pending in this writ petition, shall stand closed.

CHALLA KODANDA RAM, J

11th March, 2015
KSM