

HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No. 23723 of 2011

ORDER:

Heard the learned counsel for the petitioner and learned Government Pleader for the respondents. With the consent of both the parties, the Writ Petition is disposed of at the stage of admission.

The present Writ Petition is filed seeking issuance of writ of mandamus declaring the action of the 3rd respondent/Tahasildar, Routhulpudi Mandal, East Godavari District, in issuing the impugned proceedings No.Ref:A/167/08 dated 04.10.2010 against the petitioner and his inaction in not disposing of the representation dated 12.01.2011, as illegal, arbitrary, unjust and contrary to the Law.

The averments in the affidavit filed in support of the Writ Petition are as follows :

The petitioner, who claims himself, to be a landless poor purchased a piece of land to an extent of Ac.2.25 cents in Survey No.190/2 situated in Lachireddypalem village in Kotananduru Mandal (Now Routhulapudi Mandal), East Godavari District from respondents 4 and 5 through a registered sale deed vide Doc.Nos.61/2001 and 62/2001. Thereafter, on 30.10.2002 the Tahasildar

issued pattedar passbook in favour of the petitioner. The averments in the affidavit further show that the petitioner obtained a loan from Bank of India, Tuni Branch and cultivating the said land for the past 10 years without any interruption. It is stated that the respondents 4 and 5 who are adjacent landholders, taking advantage of petitioner's loneliness are trying to occupy the said land. The averments in the affidavit also show that the respondent No.3/Tahasildar is trying to take away his land on the ground that it was an assigned land, which according to the petitioner is false. It is further stated that in collusion with Respondents 4 and 5 the 3rd respondent issued proceedings No. Ref: A/167/08 dated 04.10.2010, wherein it is alleged the land which was assigned, was alienated, contrary to the Act 9/1997. Pursuant thereto, the petitioner made a representation to the 3rd respondent on 12.01.2011 seeking suspension of the order dated 04.10.2010 and the same is still pending for consideration. The action of the 3rd respondent in cancelling the patta granted to the petitioner and also his non consideration of the representation made in the year 2011 is subject matter of the challenge in the present Writ Petition.

The learned Government Pleader on instructions states that Kodavati Mariniyya @ Peddapuram, Kodavati Rajulu and Kodavati Buchiyya r/o. Lachireddypalem

village of Rowthulapudi Mandal, lodged a complaint with the District Collector, East Godavari District with regard to the lands in question, which was forwarded to the Tahasildar for taking necessary action. On enquiry, the Tahasildar found that Kodavati Rajulu was assigned Government land in Survey No.190/2 and Kodavati Butchaiah to an extent of Ac.1.00 each. On physical verification of the land it was found that Koruprolu Ramesh was having Ac.2.00 in the same survey number. In view of the alienation of the assigned land, notices under Form I and II were issued to the persons concerned. The said Koruprolu Ramesh is said to have stated that he purchased land from Rajulu and Butchaiah after paying Rs.34,000/- and land was registered in his name on 08.01.2011. After due enquiry, orders came to be issued restoring the above lands to the original assignees under the provisions of Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977. The copies of the report were also submitted to Lokayuktha and also to the A.P. S.Cs., S.Ts. Commission, Hyderabad. Later, K.Rajulu and K.Butchaiah filed a petition before the Tahasildar stating that the purchasers were obstructing them for maintaining the land. The said petition was sent to the Station House Officer, Kotananduru for taking necessary action, which lead to registration of crime No.6/2010. It is thus stated that after verification of the entire records, the Tahasildar issued orders in Ref.

No.167 of 2008 dated 04.10.2010 and as such no relief can be granted to the petitioner.

From the above, it is clear that there is a dispute with regard to the ownership of the property. The learned counsel for the petitioner claims to have purchased the said land from respondents 4 and 5 who are K.Nookaiah and K.Nagaraju. Learned counsel further submits that pursuant to the order passed by the Lok Adalat, the petitioner has been forcibly dispossessed from the land. Whereas the version of the 3rd respondent is to the effect that it is a Government land assigned to K.Butchaiah and K.Rajulu and on physical verification one K.Ramesh was found to be in possession of the property and thereafter the said land was handedover to the original assignees. Therefore, there is any amount of doubt as to the person from whom he purchased the property and also as to the person in possession of the property. Both the persons are claiming title and possession. Therefore, this Court under Section 226 of the Constitution of India cannot go into the disputed questions of facts and decide the issue. On the other hand, as per Section 4A of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 an appeal would lie to the Revenue Divisional Officer on the order of Mandal Revenue Officer and against the order of Revenue Divisional Officer appeal would lie to the District

Collector.

In view of the above, I see no reason to entertain the Writ Petition, however the petitioner is at liberty to avail the remedy available under law i.e., by way of filing an appeal under Section 4A of the Act, in which event, the same shall be dealt with in accordance with law at the earliest.

Accordingly, the Writ Petition is disposed of. No order as to costs. As a sequel to it, miscellaneous petitions pending if any, in this Writ Petition, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Date: 29.07.2015

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