

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

WRIT PETITION No. 22650 OF 2011

Between:

Mandhadi Sreenivasulu and others

.. Petitioners

and

The District Collector, SPSR Nellore District

and others

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 12.08.2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

1. Whether Reporters of Local newspapers Yes/No

may be allowed to see the Judgments?

2. Whether the copies of judgment may be Yes/No

marked to Law Reporters/Journals?

3. Whether Their Ladyship/Lordship wish to Yes/No

see the fair copy of the Judgment?

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

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ORDER:

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Heard learned counsel for the petitioners, learned Government Pleader for Revenue appearing for the respondents 1 to 4 and learned counsel for the respondents 5 and 6. With the consent of the parties, the writ petition is disposed of at the admission stage itself.

The averments made in the affidavit filed in support of the writ petition would show that the petitioners are the purchasers of land admeasuring Ac.0.42 cents in Survey No.339/3 situated at Thoderu Village, Podalakur Mandal, Nellore District from one Rapuru Lakshmaiah and his sons under an agreement of sale dated 01.06.2010 having paid the entire sale consideration and since then they are in possession and enjoyment of the same. While things stood thus, the 4th respondent resumed the land to the Government vide his proceedings Rc.BN.251/2010 dated 27.08.2010 on

the ground that the original assignee namely Rapuru Laxmaiah violated the condition by not putting the land into cultivation and alienating the land in favour of one Tanniru Mastanaiah and others in violation of the provisions of Section 3(1) of the A.P. Assigned Lands (POT) Act, 1977. Aggrieved by which, the petitioners filed an appeal before the 3rd respondent. During the pendency of said appeal, basing on a report of the 3rd respondent and also on the basis of a representation made by the Chairman, Zilla Praja Parishad, Nellore, the 1st respondent vide proceedings Rc.E2.6044/10, dated 23.01.2011, is said to have permitted the 4th respondent to hand over advance possession of the land to the M.P.D.O., Podalakur for construction of community halls and also directed him to send regular alienation proposals, subject to finalization of the appeal pending before the 3rd respondent. Thereafter i.e. on 04.06.2011, the 4th respondent dismissed the appeal filed by the petitioners. Challenging the same, the petitioners filed the writ petition.

Learned counsel for the petitioners mainly submits that the petitioners purchased the land through an agreement of sale as it is a patta land and that the 4th respondent without conducting proper enquiry resumed the land to the Government.

On the other hand, the learned Government Pleader for Revenue submits that the statute provides an appeal before the Joint Collector, Nellore (2nd respondent herein) and since the issue involves disputed questions of fact, he submits that it is proper for the petitioners to approach the 2nd respondent by way of an appeal.

A perusal of the record shows that the petitioners have got statutory right of appeal before the 2nd respondent. The Apex Court in **Commissioner of Income Tax v.Chhabil Dass Agarwal** held that “ *the High Court will not entertain a petition under Article 226 of Constitution, if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance still holds the field. Therefore, when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation.*”

Since the issue involves disputed questions of fact and as an alternative remedy is available to the petitioners, the writ petition is disposed of, giving liberty to the petitioners to file an appeal before the 2nd respondent who shall dispose of the same, in accordance with law, at the earliest. No order as to costs.

Consequently, miscellaneous petitions pending if any in the writ petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

12th August, 2015

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