

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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WRIT PETITION No. 3800 of 2015

ORDER:

Questioning the legality of the orders dated 07.02.2015 passed by the 4th respondent-Tahsildar, this writ petition is filed.

2. Briefly stated, the pleaded case of the petitioner is that he purchased an extent of Ac.0-03 cents in Survey No.69/3 of Gummidigonda village, Nathavaram mandal, Narsipatnam Revenue Division, Visakhapatnam in the year 2001 for a valuable consideration from its erstwhile owners, viz., Regati Tatabbayye and his son Regati Rajubabu who are the legal heirs of one Regati Talupulu. It is stated that Late Regati Talupulu and his wife Talupulamma were granted house site patta in the year 1984 on par with other occupants in the Survey No.69 and 70 of Gummidigonda village. The petitioner's name was entered in the revenue records. While things stood thus, one Velagada Sitamma who is stated to be the daughter of Late Regati Talupulu filed a complaint before the 3rd respondent alleging that the petitioner is in illegal occupation of land. Consequently, the 3rd respondent issued notice to the petitioner, to which the petitioner appeared before the 3rd respondent and the 3rd respondent closed the complaint by directing Velagada Sitamma to approach competent Civil Court, if she had any grievance. While so, the 4th respondent initiated proceedings dated 28.07.2014 and issued a show cause notice under the A.P. Assigned Lands (Prohibition of Transfers) Rules 2007 alleging that the land purchased by the petitioner is an assigned land and such purchase constitutes violation of conditions of patta under the A.P. Assigned Lands (Prohibition of Transfer) Act, 1977 (for short, 'the Act'). The petitioner submitted a reply to the 4th respondent drawing his attention to the terms and conditions stipulated in the

patta. Even then, without considering his explanation, when the 4th respondent tried to dispossess the petitioner, he approached this Court by filing W.P.No.24709 of 2014; and this Court, by order dated 27.08.2014 directed the 4th respondent to consider the reply submitted by the petitioner and pass appropriate orders. The 4th respondent-Tahsildar passed orders dated 07.02.2015 directing the petitioner to vacate the land and handover the possession. Hence, the writ petition.

3. Heard the petitioner's counsel, the learned Assistant Government Pleader and perused the record.

4. The petitioner's counsel vehemently contends that the petitioner submitted his explanation wherein several objections were raised, including the one that the very patta granted in favour of Regati Talupulamma permits sale of the land after ten years from the date of grant; and that even assuming otherwise that the sale is in violation of the patta conditions, in view of Section 3(5) of the Act, the petitioner being a landless poor is still eligible for regularisation. He submits that the 4th respondent, without considering the said aspects passed the impugned order.

5. As against the order dated 07.02.2015 passed by the Tahsildar, which is now impugned in this writ petition, an appeal lies to the Joint Collector under the Act. Considering the fact that there is a remedy of appeal provided under the Act against the impugned order, without expressing any opinion on the merits of the case, this writ petition is disposed of by giving liberty to the petitioner to approach the appellate authority by way of filing an appeal within three weeks from the date of receipt of a copy of this order. On filing of such an appeal, the appellate authority shall take the appeal on file and dispose of the same in accordance with law after affording an opportunity of hearing to the parties, within a period of four months from the date of filing the appeal. Further, in view of the admitted fact that the petitioner is in

possession of the property in question, he shall not be dispossessed from the property till disposal of the appeal by the appellate authority.

No costs.

Miscellaneous petitions, if any pending in this writ petition, shall stand closed.

CHALLA KODANDA RAM, J

23rd February, 2015

KSM