

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE S.V. BHATT**

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W.A.No.582 OF 2015

PC: *(Per the Hon'ble Sri Justice S.V.BHATT)*

Heard Mr. A. Giridhar Rao, learned counsel for the appellant and learned Government Pleader appearing for respondents 1 to 5.

The unsuccessful writ petitioner is the appellant before this Court. The writ petition is filed for the relief of Mandamus declaring the orders No.D.Dis.No.E1/15333/07 dated 12.11.2013 of 3rd respondent rejecting the request of appellant herein to alienate an extent of Ac.1-04 cents in Survey Nos.112/5-A, C & D of C.Ramapuram Village, Ramachandrapuram Mandal, Chittoor District, as illegal and amounts to not exercising the jurisdiction vested in 3rd respondent. The appellant prays for a direction to reconsider his request in terms of G.O.Ms.No.571 Revenue (Assignment.1) Department dated 14.09.2012.

The admitted facts of the case are that the petition land is an assigned land and the appellant purchased the petition land about 30 years back and claims to be in continuous possession and enjoyment of the petition land. As the purchase by petitioner is void, the 5th respondent in exercise of powers under the A.P. Assigned Lands (POT) Act, 1977 on 30.07.2007 cancelled the assignment and directed the resumption of petition land from petitioner. The order dated 30.07.2007 was confirmed on appeal and revision and thus the resumption order has become final. Thereafter, the appellant applied for alienation of the petition land according to G.O.Ms.No.571 dated 14.09.2012. Through the impugned order, the request of appellant for alienation is rejected. The order reads thus:

"I submit that the Govt. vide Memo No.17813/Assn.IV/2013-1 dt.8.5.2013 while communicating the representation of Sri Lambodara Naidu, C.Ramapuram Village of Ramachandrapuram Mandal, Chittoor District, requesting for alienation of land in S.No.112/5A etc. with an extent of acs.1.04 acres of C.Ramapuram for Sri Venkatewara Poultry and cattle feeds, have requested to examine the contents and to send report through the Chief Commissioner of Land Administration, A.P.Hyderabad.

A detailed report was called for from the Revenue Divisional Officer, Chittoor, in this regard. The Revenue Divisional Officer, Chittoor who have examined the issue has reported in the reference 4th cited, that the proposed land is situated within the radius of 2 Kms. from the Mandal Headquarters i.e. R.C.Puram.

As the proposed land comes within the banned area according to GO.Ms.No.571 Rev. (Assn.1) Department dt.14.9.2012, the alienation proposals were rejected vide this office Ir.Roc.E1/15333/07 dt.12.11.2013."

Hence, the writ petition.

The learned Single Judge through the impugned order has found that the petition land attracts one of the prohibitions for consideration of a request for alienation of Government land. It is further held that the petitioner does not have a vested right to seek alienation of Government land and the alienation of Government land is exclusively in the policy domain of Government and the petitioner cannot compel alienation of petition land in his favour. Challenging the instant findings, the present writ appeal is filed.

Mr.A.Girdihar Rao, learned counsel appearing for the appellant while fairly admitting the location of petition land as within the two kilometres radius from the Mandal headquarters tried to persuade this Court by contending that the petition land is in possession of appellant for over 30 years, the petitioner has established a poultry farm and eking out his livelihood and having regard to these ground realities, an alternative prayer to direct the respondents to reconsider the request of the appellant for alienation of petition land.

On the other hand, the learned Government Pleader submits that the request of appellant for alienation, as already noticed in the order impugned, cannot be considered in view of the location of petition land within two kilometres radius from Mandal headquarters and he further submits that if orders under Section 4 of the Act 9 of 1977 have been passed, the proposal for alienation of such resumed land cannot be considered by the Government. He prays for dismissal of the writ appeal.

We have perused the material available on record and noted the rival contentions.

Prima facie, we are of the view that alienation of Government land is in the exclusive policy domain of

Government guided by law or orders issued by the Government from time to time. Even assuming that there is policy for alienation of Government land, the consideration of a request is conditioned with a few prohibitions. Admittedly, the petition land attracts one of the prohibitions set out in G.O.Ms.No.571 dated 04.09.2012. Further being unsuccessful in the proceedings initiated under Act 9 of 1997, the appellant cannot as a matter of right claim consideration of his request for alienation of Government land. For the above reasons, we see no ground to interfere with the findings recorded in the order under appeal and accordingly the writ appeal is dismissed.

Consequently, miscellaneous petitions, if any pending, also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V.BHATT, J

Date:14.07.2015
Stp