

HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.10938 OF 2015

ORDER:

This writ petition is filed by the petitioners questioning the eviction notices in Rc.No.B/678/2015, dated 04.04.2015, under Section 7 of the A.P. Land Encroachment Act, issued by the 1st respondent-Tahsildar, as illegal and arbitrary and consequently, set aside the same by directing the respondents not to treat the patta lands owned by the petitioners in Sy.Nos.522, 523, 525 and 526 of Matwada village to an extent of Acs.14. 26 guntas, as part of Survey No.352 of Matwada Village, Warangal District.

It is the case of the petitioners that the 1st respondent-Tahsildar issued the eviction notices to them under Section 7 of the A.P. Land Encroachment Act, directing the petitioners to show cause as to why they should not be summarily evicted from the above said government land within 15 days of receipt of the notices.

This Court in a judgment reported in ***Dasari Narayana Rao and another v. Deputy Collector and Mandal Revenue Officer, Serlingampalli, R.R District and others*** while considering the notice similar to the one which is now in issue, had held:

“Para.24. In the considered view of this Court the show-cause notice dated 16.02.2002 is itself invalid. The minimum requirement of a show-cause notice, in the context of an action initiated under the provisions of the 1977 Act is (a) it should assert that there was an assignment of land either under the provisions of the 1977 Act or under any Rules for the time being in force subject to a condition of non-alienation; that such “assigned land” was transferred by such assignee in contravention of the prohibition of alienation clause contained in the deed of assignment; (b) it should assert that the respondents to the show-cause notice had entered upon possession of “assigned land” under a deed of transfer which is invalid under the provisions of Section 3 of the 1977 Act. The show-cause notice must of necessity contain such factual

assertions to enable the recipient (of the notice) to rationally respond and submit his objections, if any, to the proceedings initiated against him under the provisions of the 1977 Act. Issuance of a show-cause notice is not an empty ritual. It should provide a reasonable and fair opportunity to the recipient of the show-cause notice to defend his title and possession of, the valuable right to property.”

In the present case, though it is stated that the petitioners have purchased the lands in Sy.Nos.522, 523, 525 and 526 of Matwada Shivar, Paidipally Village, Warangal District, no details whatsoever, i.e., in whose favour the lands were assigned, when the said assignment was made and whether the assignee was permitted to sell or not, are not discernable. Further, it is stated that the lands are also mutated in the revenue records and the names of the petitioners are entered to an extent of Acs.14.26 guntas in the revenue records of Matwada village, Warangal District.

Having regard to the facts and circumstances of the case and especially in view of the law laid down by this Court in ***Dasari Narayana Rao's case*** (1 *supra*), the very notices itself are defective and they are, accordingly, set aside. Inasmuch as the notices issued by the 1st respondent, are not in conformity with the mandatory requirement, as held by this Court, in the above said judgment, no action can be initiated against the petitioners. However, considering the facts and circumstances of the present case, liberty is given to the 1st respondent-Tahsildar, to issue supplementary notices to the petitioners setting out all the details as to how and in what manner the land was assigned and in whose favour it was assigned, and if so, what are the violations of the assignment conditions etc. Thereafter, the 1st respondent shall give adequate opportunity to the petitioners to submit their representations before passing the orders on merits.

With the above observations, 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

April 21, 2015.

KTL

HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

—

—

—

—

—

—

—

—

—

—

—

—

—

—

—

1

—

1

-
-
-
-
-
-
-
-
-

WRIT PETITION No.10938 OF 2015

-

Date:21.04.2015

KTL