

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.16090 of 2015

Date: 18-08-2015

Between:

Puligari Yellam @ Yelliah and 2 others

.... Petitioners

AND

The State of Telangana, represented by its
Principal Secretary, Revenue Department,
Hyderabad and 3 others

.... Respondents

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

Writ Petition No.16090 of 2015

ORDER:

This writ petition is filed for a mandamus declaring the action of the respondent authorities in not dropping proceedings initiated under Act 9 of 1977 against the petitioners in October 2013 and initiating steps to dispossess the petitioners and taking up activities without completing due process of law and giving an opportunity in spite of the orders passed by the Revenue Divisional Officer, dated 25-03-2006 regarding the same land in Survey No.1324 of Dubbaka village and others in W.P.No.25292 of 2014 as illegal and unconstitutional and for a consequential direction to the respondents not to interfere with the possession and enjoyment of the petitioners in the subject land.

2. The case of the petitioners is that they purchased Ac.0.24 guntas of land, Ac.0.23 guntas and 225 square yards of house plot in Survey No.1324 respectively under three different sale deeds

and they are landless poor belonging to weaker sections of society and backward community. The petitioners requested the respondent authorities to give them the land for cultivation and house sites and after raising loans and borrowing money, they purchased small bits of land. While so, when the petitioners have made arrangements for construction of house sites, the 4th respondent-Tahsildar issued proceedings in No.B/6800/2013, dated 22-10-2013 stating that the petitioners have illegally purchased assigned lands and pursuant to the said notice, the petitioners submitted their explanation on 29-10-2013 and since no orders are passed thereon, they filed W.P.No.29592 of 2014, which was disposed of by this court directing the 4th respondent to consider the explanation of the petitioners to the show cause notice including representation dated 24-09-2014 said to have been filed by the petitioner before him and then take appropriate decision. Now, without passing any orders, the respondent authorities are threatening to dispossess the petitioners. Aggrieved by the same, the present writ petition has been filed.

3. The 4th respondent filed his counter denying the allegations of the petitioner and contending that the petitioners were not in possession of the subject land and the same was resumed by the then Tahsildar in the year 2003 itself, as such, question of considering the application of the petitioners and passing appropriate orders does not arise. It is also stated that if the purchase of lands is subsequent to the enactment of Act 9 of 1977, the same is not valid.

4. Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for Revenue.

5. In this case, admittedly, a show notice was issued on 22-10-2013 to which the petitioners submitted their explanation on 29-

10-2013 asserting that the subject lands are not assigned lands and they are come under the purview of sub-section (5) of Section 3 of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977. The material papers disclosed that the action initiated against the petitioners for eviction of them from the purchased land and for resuming the land was withdrawn vide proceedings No.C/6800/2002, dated 14-08-2003 of the 4th respondent, basing on the Government Memo No.5101/B1/78-1, dated 06-03-1979 in which the Government directed not to resume the land from the purchasers, who are continuously in possession and purchased the land took place prior to 21-01-1977. The said orders of the 4th respondent for withdrawal of action for eviction and for resumption of land are upheld by the 3rd respondent-Revenue Divisional Officer, Siddipet vide his proceedings in Proc.No.C/281/2006, dated 25-03-2006. However, again the 4th respondent issued impugned notice-cum-endorsement in Lr.No.B/450/2015, dated 05-06-2015 under Section 3 of the Act 9 of 1977, which shows that the subject land is Government land and all transactions took place earlier were null and void as the entire transactions were attracted Act 9 of 1977. In this regard, it is stated that the petitioners have already submitted their explanation on 24-09-2014, but no orders are orders passed thereon by the respondent authorities. Even in the counter affidavit, it is never stated that the explanations of the petitioners were considered, but, however it is stated that the petitioners were not in possession of the subject land and the same was resumed by the then Tahsildar in the year 2003 itself, as such, the question of consideration of their explanation does not arise. But, when the respondent authorities have issued the notice under Section 3 of the Act 9 of 1977, they

cannot say that they are unable to consider the explanations of the petitioners. When once the notice was issued under Section 3 of the Act, the respondent authorities are obligated to consider the representations of the petitioners.

6. In view of above facts and circumstances and since it is stated that the petitioners have already submitted their representations dated 29-04-2014, which is pending consideration, ends of justice would be met if the respondent authorities are directed to consider the representations of the petitioners and pass appropriate orders.

Therefore, the 4th respondent or the competent authority is directed to consider the representations of the petitioners dated 24-09-2014 and pass appropriate orders thereon in accordance with law as directed by this Court in W.P.No.29592 of 2014, as expeditiously as possible, preferably within a period of four (4) weeks from the date of receipt of a copy of the order. Till such orders are passed, status quo obtaining as on today shall be maintained.

With the above direction, the writ petition is disposed of at the stage of admission. No costs.

A. RAJASHEKER REDDY, J

Date: 18-08-2015

Ksn