

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.30162 of 2015

ORDER:

Heard.

The petitioner was given a notice under Section 7 of the A.P.Land Encroachment Act, 1905 (for short 'the Act') on 03-09-2015 by the 4th respondent, to which the petitioner has filed a detailed explanation through his lawyer on 09-09-2015 denying the claim of the 4th respondent and placing strong reliance on the contention that the original assignee is entitled to sell the land after ten years, as the prohibition is only for a period of ten years. The petitioner also relied upon the flow of title from his vendors under various sale deeds to justify that he has purchased the land in question and thereafter constructed a house therein.

The present writ petition is, however, filed questioning the jurisdiction of the 4th respondent on the ground that in terms of grant of house site patta, particularly Clause-11 thereof, disentitles the 4th respondent from claiming the land under the A.P.Land Encroachment Act, 1905. Strong reliance is also placed upon the decision of the Supreme Court in **THUMMALA KRISHNA RAO & ANOTHER**^[1] to contend that in terms of the ratio thereof, if at all the 4th respondent seeks to claim title, he has to approach the competent civil court and get the title declared.

In the facts and circumstances of the case, I am not inclined to accept the contention of the learned counsel for the petitioner primarily for the reason that the assignment is stated to have been made in the year 1975 and as such, the alienation of assigned land prima facie attracts Section 3 of the A.P.Assigned Lands (Prohibition of Transfers) Act, 1977. Since the petitioner has already filed detailed explanation through his lawyer, I am not inclined to accept the contention raised in this writ petition that the 4th respondent has no jurisdiction in the matter, as prima facie it appears that the land is stated to be canal waste land (kaluva poramboke). However, since the petitioner

apprehends threat of eviction and demolition, at any moment, it is necessary to protect the interest of the petitioner till the 4th respondent passes a reasoned order.

Hence, the 4th respondent shall fix the date of hearing to enable the petitioner to appear and make submissions in support of the explanation already submitted through his lawyer, as stated above, and thereafter, the 4th respondent shall consider the explanation as well as the contention of the petitioner and pass a reasoned order. In the meanwhile, the 4th respondent shall not take any steps to evict the petitioner from the land in question or demolish the petitioner's building, till the direction as above is complied with.

Accordingly, the writ petition is disposed of. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

VILAS V.AFZULPURKAR, J

Date: 16-09-2015

Note:

Issue C.C. by 22-09-2015

(B/o)

Prv

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16-09-2015

Prv

[\[1\]](#) AIR 1982 SC 1081