

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.11044 OF 2015

ORDER:

This writ petition is filed by the petitioners questioning the action of the 3rd respondent-Tahsildar in interfering with the peaceful possession and enjoyment of the property over an extent of Ac.0.50 cents of the 1st petitioner and the property belonging to the 2nd petitioner over an extent of Ac.1.00 cents situated in Sy.No.215.3, Kaswareddipalem Village, Sullurupet Mandal, SPSR Nellore District and dispossess them, under the guise of Form-II notice dated 18.03.2015.

It is the case of the petitioners that the 3rd respondent-Tahsildar issued the Form-II notice to the petitioners under Rule 3 of the A.P. Assigned Lands (Prohibition of Transfers) Rules, 2007, directing them to show cause within 15 days of receipt of the notices as to why they should not be summarily evicted from the above said assigned lands. In the said notice, it has also been stated that one Shk. Gulam Kadhar was the transferor/assignee of the above said land and he had sold the said land which is assigned.

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:

“24. A.P. Assigned lands (Prohibition of Transfers) Act, 1977 – Sections 4(1), 3 and 2(1) –Assigned land – Alienation of, in contravention of prohibition of transfer, show-cause notice, minimum requirements of – Show-cause notice to assert that there was an assignment of land and such assignment was subject to a condition of non-alienation, and that such “assigned land” was transferred by such assignee in contravention of prohibition of alienation clause contained in deed of assignment – Further, it should assert that respondents to show cause notice had entered upon possession of “assigned land” under a deed of transfer which is invalid under S.3 – Show-cause notice must of necessity contain such factual assertions to enable recipient to rationally respond and submit his objections, if any, to proceedings initiated against him under S.3 – It should provide a reasonable and fair opportunity to recipient of show-cause notice to

defend his title and possession of property.”

In the present case, though it is stated that the petitioners had purchased the assigned land, no details whatsoever, i.e., in whose favour the land was assigned, when the said assignment was made and whether the assignee was permitted to sell or not, are not discernable. It is the specific assertion of the petitioners that their uncle had purchased the above said land and it is a zyroathi land and not an assigned land. Thereafter, the petitioners themselves have acquired right over the above said lands by way of registered gift deed executed by the uncle of the petitioners.

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** (1 supra), the very notice itself is defective and it is, accordingly, set aside.

Inasmuch as the notice issued by the 3rd respondent, is 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 3rd respondent-Tahsildar, to issue a supplementary notice 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 3rd 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

Date:20.04.2015.

Gk.

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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Date:20.04.2015

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