

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.14100 OF 2005

ORDER :

The case of the petitioner is that she has purchased the land admeasuring Ac.3-00 guntas vide registered sale deed dated 30.11.2000 bearing No.8783 of 2000 from Urmila Devi and her three sons i.e., Durga Singh, Rameshwar Singh and Sudheer Singh, who inherited the same from Nandlal who is ex-service man, with an intention to establish a small scale industry and started it by name M/s.Ganani Industries, by erecting shed in an extent of 3000 square feet. The subject land was allotted to Nandlal in the year 1982 being an ex-service man and by the year 1992, he paid all the premium amounts in respect of the said land. Immediately after purchase of the land, the petitioner applied for pattadar pass books and the then M.R.O., Medchal, by order dated 11.01.2001 in File No.B 3828/2000 had ordered for mutation of the name of the petitioner in the record of rights in place of earlier pattadar Nandlal who is the husband of Urmila Devi. While so, the 1st respondent issued a show cause notice dated 25.05.2005 to the petitioner informing that the land allotted to the original allottee Nandlal is heritable, but not alienable and upon the directions of the Land Reforms Appellate Tribunal in LRA No.24/1998, in its order No.M/392/75 dated 24.01.2003 and 21.02.2003, the subject land is to be reverted back to the declarant i.e., land owner, the petitioner was called upon to explain the reasons as to why the land purchased by her should

not be resumed to Government. That petitioner came to know that show cause notice was issued to her on the claim of LR's of declarant Bhai Lal Patel seeking extension of benefit under Section 4-A of the Andhra Pradesh Land Reforms (Ceiling on Agricultural) Holdings Act, 1973. That the original declarant was declared as surplus land holder and surrendered the excess land to the State and thereafter a piece of land admeasuring Ac.3-00 was allotted to Nandlal along with many other land less poor persons. On the application of the L.R's of the declarant, the Land Reforms Appellate Tribunal passed orders dated 24.01.2003 and 21.02.2003, pursuant to which the present show cause notice is issued. Aggrieved by the same, the present writ petition is filed.

2. Counter affidavit is filed by the 1st respondent stating that the registered sale deed dated 30.11.2000 executed in favour of the petitioner by the wife and children of Nandlal is void. According to the Rule 70 of the Andhra Pradesh (T.A.) Land Revenue Rules, 1951, no agricultural land can be diverted to any other purpose without permission of the District Collector, and under Section 62 of the Andhra Pradesh (T.A.) Land Revenue Act, 1317 Fasli, the District Collector can take action under Section 57 of the Act against a pattadar, who without permission, appropriated the agricultural land for other purposes and in the present case, the petitioner has not produced any affirmative evidence to show that she has obtained permission from the District Collector for using the land for non-agricultural purpose as required under Rule 70 of the Andhra Pradesh (T.A.) Land Revenue Rules, 1951. It is denied that Nandlal is an ex-service

man, but stated that the subject land was a ceiling surplus land and was transferred to Nandlal, by the erstwhile Tahsildar, Medchal, vide Transfer Certificate No.RDIS.C4/7262/1982, dated 11.01.1982 under Section 14 of the A.P. Land Reforms (Ceiling on Agricultural) Holdings Act, 1973 r/w Rule 10 of the A.P. Land Reforms (Ceiling on Agricultural Holdings) Rules, 1972, for the purpose of agriculture, subject to certain conditions.

3. Even the transfer certificate issued by the Tahsildar, in respect of the surplus land does not show that it is assigned to ex-service man, which goes to prove that the land in question has been transferred to Nandlal as being a landless poor person belonging to the backward class community. As such, the concession extended by the Government in G.O.Ms.No.1117 Revenue (Assignment-I) Department dated 11.11.1993 enabling the ex-service men to sell away assigned lands, after a period of ten years, is not applicable to the subject land. Further it is submitted that on filing declaration by Bhai Lal Bhai Patel, he has been declared to have been holding excess land, by Land Reforms Tribunal in C.C.No.M/392/75 dated 29.06.1998 and took possession of the land. Thereafter, an appeal was filed before the Land Reforms Appellate Tribunal and the Appellate Tribunal while allowing the appeal remanded the matter to the Land Reforms Tribunal to consider the case in view of Section 4-A of the Andhra Pradesh Land Reforms (Ceiling on Agricultural) Holdings Act, 1973. Accordingly, the Land Reforms Tribunal after conducting enquiry allowed the petition filed by the respondents 4 and 5 by order dated 21.02.2003 and ordered for restoration of the land. In

pursuance thereto, the present show cause notice was issued to the petitioner. It is stated that as the very purchase of the subject land is null and void within the meaning of sub-section (5) of Section 14 of the Section 4-A of the Andhra Pradesh Land Reforms (Ceiling on Agricultural) Holdings Act, 1973 r/w Section (3) of the A.P. Assigned Land (Prohibition of Transfer) Act, 1977, the possession of land by the petitioner is illegal and sought for dismissal of the writ petition.

4. Counter affidavit is filed by the respondents 4 and 5 who are the sons of the original declarant in the proceedings before the Land Reforms Tribunal reiterating the contentions in the counter filed by the 1st respondent and denying the averments in the writ affidavit. It is stated that the District Collector, Ranga Reddy District vide orders dated 20.10.2004 and 22.11.2005, directed the respondents 1 and 2 to revert the lands to the declarant and in pursuance to the said orders, impugned show cause notice was issued to the petitioner and sought for dismissal of the writ petition.

5. Reply affidavit is filed by the petitioner wherein it is stated that Nandlal was an ex-service man and that the application made by him for allotment of land and recommendations of District Sainik Welfare Board would clearly show that he is an ex-service man and that he is entitled to sell the land as per G.O.Ms.No.1117, dated 11.11.1993 after a period of 10 years.

6. Heard learned counsel for the petitioner, the learned Government Pleader for Revenue and the learned counsel for respondents 4 and 5. Perused the records.

7. Learned counsel for the petitioner submits that Nandlal was an ex-service man and was allotted the land in the year 1982 and after his death, the petitioner has purchased the said land from his legal heirs. He also submits that by virtue of G.O.Ms.No.1117 dated 11.11.1993, there is no bar for sale of the subject land, other wise he submits that once the land is assigned to the ex-service man, the imposition of so called conditions cannot be given effect to as the assignment is in favour of the ex-service man. He also submits that since Land Reforms Tribunal passed the impugned order dated 21.02.2003 after long lapse of time, the petitioner should have been put on notice, as such, the impugned order is liable to be set aside on the ground of violation of principles of natural justice. He further submits that once the proceedings under the Act have become final and the declarant has already received the compensation, merely because the respondents 4 and 5 are legal heirs, they cannot agitate against the proceedings holding land in excess which was finalised decades back. Hence, the application filed by the respondents 4 and 5 is liable to be dismissed. He further submits that though it is a show cause notice, it is in the nature of determining the rights of the parties. The authorities have already come to the conclusion, as such the same is in violation of principles of natural justice. In respect of his contentions, he relied on judgments reported in ***M.Prabhakar Reddy and Narsingoju Venkataiah & Ors¹, Konda Venugopala Raju v. State of***

¹ 1994(1) A.P.L.J.435(HC)

Andhra Pradesh², Mohd.Taher Mirza and another v. State of A.P. rep. by Authorised Officer, Land Reforms, Ranga Reddy District, Hyderabad and another³, State of Andhra Pradesh, Land Reforms Kakinada v. K.V.Jagannadha Rao⁴, Yanati Venu Gopala Reddy v. State of A.P. rep. by its Special Tahsilar (Land Reforms) and Authorised Officer, Nellore⁵,Salukari Annapurnamma and others v. The Special Deputy Tahsildar, Land Reforms, Parvathipuram⁶, U.P. State Spinning vs. R.S.Pandey and another⁷, M/s A.S. Shipping Agencies (P) Limited Rep. by its authorized representative v. Director of Mines & Geology, BRKR Bhavan Hyderabad and others⁸ and W.P.No.38504 of 2012.

8. On the other hand, learned Government Pleader for Revenue submits that Nandlal was not an ex-serviceman from whom the petitioner is claiming title and that the said land was transferred to said Nandlal by virtue of transfer certificate dated 11.01.1982 by the Tahsildar subject to certain conditions and conditions No.1 to 3 clearly envisages that same is subject to appeal or revision. The petitioner cannot claim any rights since in the present case, the Land Reforms Tribunal passed orders on the Revision on the basis of Section 4-A of the Act. Having purchased the subject land subject to certain conditions, they cannot have any grievance. It is submitted that patta is granted in respect of ceiling surplus land under the provisions of the Act and the Rules

² AIR 1997 Supreme Court 3126

³ 2006 (3) ALT 71

⁴ 2002 (2) ALT 228

⁵ 2001 (2) An.W.R.477 (A.P.)

⁶ 1986 (2) APLJ 363

⁷ 2005 (8) SCC 264

⁸ CDJ 2012 APHC 043

made therein. Condition No.1 specifically states that the land transferred shall be heritable but shall not be alienated of which the petitioner is aware, when she is claiming the title through allottee. He also submits that in pursuance of the order dated 21.02.2003 passed by the Land Reforms Tribunal, show cause notice was issued to the petitioner asking her to submit explanation. As far as the proceedings of the Land Reforms Tribunal are concerned, petitioner cannot have any say. In support of his contentions he relied on judgment reported in ***Medipally Pentaiah and others v. Revenue Divisional Officer and others***⁹. He further submits that by virtue of G.O.Ms.No.1406 dated 25.07.1958 assigned lands cannot be alienated. He places reliance on ***Sabbavarapu Appanna and others v. Revenue Divisional Officer, Visakhapatnam and others***¹⁰.

9. Learned counsel for the respondents 4 and 5 submits that the Nandlal has been working as security guard at SBH and claimed that the subject land is not allotted to the ex-servicemen. He submits that the so called assignment dated 11.01.1982 also shows that it is only assignment under provisions of the Act and the Rules made therein and with a condition that the same cannot be alienated and are also subject to further appeal and revision. If petitioner had any grievance, the petitioner can avail alternative remedy available under Rule 10 (6) and 10-A(4) of the Rules.

10. In this case, it is to be seen that though several contentions are raised, it is admitted fact that Bai Lal H Patel filed declaration

⁹ 2006(6) ALT 247

¹⁰ 2008 (2) ALD 247

in respect of the lands including the land in Sy.No.471 and the said declaration was finalized and he was held to be surplus land holder to the extent of 0.3528 S.H. and accordingly he surrendered the excess land on 21.08.1976 and possession was taken from him by the Government. Out of the extent of land so resumed, an extent of Ac.03-00 cents in Sy.No.471 which is subject matter of the writ petition has been transferred to one Nandlal under Section 14 of the A.P. Land Reforms Ceiling on Agricultural Holdings Act, 1973 r/w Rule 10 of the A.P. Land Reforms (Ceiling on Agricultural Holdings) Rules, 1974 for the purpose of Agriculture by Tahsildar, Medchal vide Transfer Certificate No.RDIS.C4/7262/1982, dated 11.01.1982 subject to certain conditions. From the legal heirs of the Nandlal, the petitioner has purchased the subject land through registered sale deed 30.11.2000 bearing No.8783 of 2000. The conditions specified in proceedings dated 11.01.1982 reads as follows:

“1.The land transferred shall be heritable, but shall not be alienated or transferred by way of sale, gift, mortgage, lease in any manner whatsoever except by way of mortgage in favour of the Government, a Bank or a cooperative Society including a Land Mortgage Bank.

2. In the event of the cancellation of the allotment, transfer either by a suit or an appeal or a revision, the allottee shall not be entitled for any compensation for any improvement that he has carried out to the land allotted, transferred to him.

3. In the event of breach of all or any other above said conditions, the Government will be at liberty to resume the land without compensation.”

The above said conditions show that the allotment was subject to certain conditions.

11. When the same plea was raised in W.P.No.11827 of 2012, this Court upheld the orders of resumption. In the case of

Medipally Pentaiah and others v. Revenue Divisional Officer and others¹¹ this Court has rejected the plea of the petitioner therein by considering Rule 10-A(4) of the Rules. In ***Sabbavarapu Appanna and others v. Revenue Divisional Officer, Visakhapatnam and others***¹² this Court held as follows:

“In view of the aforesaid facts and circumstances of the case, it has to be held that the ceiling surplus agricultural lands transferred in favour of the landless poor containing the condition that the lands are not alienable but inheritable permanently prohibits the transferee to alienate the said lands either under the provisions of the Act 1973 or under the provisions of the Act, 1977. The conditional transfer in favour of the landless poor transferring the agricultural lands on payment of 50 times the land revenue, subject to maximum of Rs.375/- in case of dry land and Rs.1,025/- in case of wet land per hectare, to be collected in 15 annual instalments, imposing a condition not to alienate such lands, even after the payment of the said meagre sum, the prohibition of transfer continues. The Act 1977 prohibits transfer of such assigned lands permanently, if a condition is imposed while transfer that such lands are not alienable. For violation of the condition imposed while transferring the lands in favour of the landless poor in respect of ceiling surplus lands or any other lands with such condition prohibiting the transfer, the resumption can be under the provisions of the Act, 1977 have overriding effect over other laws including the Act, 1973, as in the case of the lands situated in the Andhra Pradesh scheduled areas.”

12. The petitioner has *no locus standi* to challenge the proceedings dated 21.02.2003 passed by the Land Reforms Tribunal since she purchased from original assignee which was granted subject to appeal and revision under the Act. Though learned counsel for the petitioner cited several decisions regarding maintainability of the writ petition, a reading of the decisions

¹¹ 2006(6) ALT 247

¹² 2008 (2) ALD 247

show that they are in different context and has no relevance with the present case.

13. In view of the same, the writ petition is dismissed. However, the petitioner is at liberty to file explanation to the show cause notice within a period of eight (08) weeks from today. Till such time, status quo order granted earlier shall continue. If the petitioners do not file explanation within the aforesaid period, it is open for the respondents to take appropriate action in accordance with law. No costs.

14. As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

27.10.2016
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A.RAJASHEKER REDDY, J



