

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.8626 OF 2012

O R D E R :

The case of the petitioner is that she purchased an extent of Ac.2-20 gts in Sy.No.163/15 of Anantharam Village, Mahbubabad Mandal, Warangal District from the original pattadar in the year 2003. Subsequently, the petitioner's name was entered in the revenue records and obtained pattadar passbook vide patta No.522 in the year 2010 and later her name was also recorded in the pahani for the year 2011-12. On 03.03.2012, 6th respondent along with his men entered into the said land on 03.03.2012 saying that the said land is given in advance possession to the 2nd respondent for the purpose of construction of model school. The petitioner immediately approached the 1st respondent with a request for demarcation of the lands as there was confusion with regard to boundaries who inturn vide Memo dated 03.03.2012 directed the Mandal Surveyor to inspect the spot and submit a detailed report within three (03) days. Simultaneously, the petitioner approached the 6th respondent, who is the contractor engaged for construction of school. Meanwhile, the petitioner gathered information regarding handing over advance possession of the lands to the 2nd respondent vide a report dated 21.01.2012 by the Revenue Inspector stating that the subject land is a Government land. Thereafter, the 1st respondent issued notice in Form-I under Rule 3 of Andhra Pradesh Assigned Land (Prohibition of Lands) Rules, 2007 (for short 'the Act') to one Vallupu Narasaiah and in the said notice, the petitioner's name

was mentioned as the name of the transferee and at that point of time, petitioner came to know that the land purchased by him was not a private land but the government land assigned to the said Vallupu Narasaiah. On further enquiry, petitioner came to know that the entire land in Sy.No.163 of Anantharam Village is a Government land in an extent of about 40-50 acres and the entire transactions in respect of such lands is against the statutory provisions. Petitioner also submits that he has purchased the subject land in good faith and he is a land less poor person belonging to BC(B), and therefore he is entitled for regularisation of the land in his possession. Aggrieved by the action of the respondents in handing over the advance possession of the subject land to the 2nd respondent without affording notice to the petitioner, the present writ petition is filed.

Counter affidavit is filed by the 1st respondent stating that at present no body is in possession of the subject land and one B.Chinna, CRPF Jawan has requested for allotment of the subject land and proposals for assignment of the same was submitted to the District Collector. Later, the said proposals were dropped on upgradation of Mahabubabad grampanchayat into Municipality. After verification of the documents produced by the petitioner's mother, it is revealed that the land purchased by the petitioner is in contradiction with the Andhra Pradesh Assigned Land (Prohibition of Transfers) Act, 1977. It is denied in the counter that the petitioner is a land less poor person stating that petitioner's husband is a business man and petitioner's mother is a realator who purchases vast extent of land and try to convert the

same into house sites. With regard to the same, W.P.No.21074 of 2010 is also pending before this Court. It is further contended that the petitioner was issued Form-I and Form-II notices by the revenue authorities as she has purchased the assigned land. Since the petitioner is not a poor person, she is not eligible for regularizing the possession of the suit land under Section 3(5) of A.P. Assigned Lands (POT) Act, 1977.

Additional affidavit is filed by the 1st respondent stating that subject land was allotted to the 2nd respondent on 21.01.2012 for construction of Model School and the construction was also completed and presently, the school is running in the said land and the photographs of the said school were also filed. When possession of the subject land is already handedover to the 2nd respondent, the question of granting advance possession does not arise. It is also stated that inspite of receiving notice under Rule 3 of A.P.Assigned Lands (Prohibition of Transfers) Rules, 1977, the petitioner did not choose to file explanation to the same, as such no final orders are passed by them.

Reply affidavit is filed denying the contentions made in the counter affidavit.

Learned counsel for the petitioner submits that intentionally, advance possession was handed over to the 2nd respondent on 21.02.2012 and thereafter Form-I notice was issued on 22.03.2012. He submits that when petitioner made representation for demarcation of the subject land, the petitioner was asked to produce the documents and the 1st respondent issued memo dated 03.03.2012 to the Mandal surveyor for

demarcation of the same, but no demarcation took place and the respondents high handedly handed over the possession to the 2nd respondent though petitioner's name was recorded in the revenue records.

Learned Assistant Government Pleader for Revenue submits that the respondents came to know that the land purchased by the petitioner is a Government land when petitioner was asked to produce the documents in pursuance to the representation made by him for demarcation of the subject land. He also submits that the school has been constructed in the subject land and the same is being run. He further submits that the petitioner failed to submit explanation to the notices issued by them.

It is to be seen that issuance of notice to the original assignee is admitted by the petitioner and issuance of Form-II notice is not seriously disputed by the petitioner and even the construction of school in the subject land is also not disputed. The fact remains that the petitioner was issued pattadar pass books and title deeds. Since building has already been constructed and since no final orders are passed in pursuance to the notices issued to the original assignee and the petitioner, the petitioner is at liberty to raise all his pleas raised herein before the 1st respondent by filing an explanation. In case, the petitioner succeeds, it goes without saying that the authorities shall either hand over the possession of the subject land or take steps for acquisition of the same.

Accordingly, the writ petition is disposed of. However, the 1st respondent shall issue notice to the petitioner afresh and in pursuant to the same, the petitioner shall file explanation within four (04) weeks from receipt of the same and on filing of the same, the 1st respondent shall pass orders within a period of four (04) weeks thereafter, after giving an opportunity to the petitioner. No costs.

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

06.12.2016
dv

A.RAJASHEKER REDDY, J

