

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.26150 OF 2012

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ORDER:

This petition is filed for a writ of *Mandamus* declaring the action of the 3rd respondent in insisting the petitioner to vacate from his landed property admeasuring Ac.1.46 cents in R.S.No.300/1A4 of Yerraguntapalli Revenue Village, Chintalapudi Mandal, West Godavari District, without following due procedure established by law, as illegal and arbitrary and for a consequential direction to the respondents not to dispossess the petitioner from his land.

The case of the petitioner is that he is the absolute owner, possessor and enjoyer of agricultural landed property admeasuring Ac.1.46 cents in RS.No.300/1A4 of Yerraguntapalli Revenue Village, Chintalapudi Mandal, West Godavari District, having purchased the same vide registered deed dated 03.11.2005 from his vendors Andugula Lilli Manohari and another for a valuable consideration and ever since such purchase, the petitioner is in exclusive possession and enjoyment of the said land. The respondents also issued Pattadar Passbook and title deed in Patta No.835 of Yerraguntapalli Village, in favour of the petitioner and that the petitioner is eking out his livelihood by collecting coconut usufruct from the coconut trees situated in the said land and also by cultivating inter crops. While so, on 14.08.2012, the 3rd respondent and his survey staff visited the petitioner's land and undertook survey work without any notice to the petitioner and when the petitioner enquired about the same, the 3rd respondent stated that they have identified the subject land for granting

permission for construction of community hall. When the petitioner questioned the same, they orally stated that the subject land is a government land and insisted the petitioner to vacate the said land. Questioning the action of the respondents in trying to evict the petitioner from the subject land without issuing any notice and inviting any objections and without extending any opportunity of filing objections and hearing, present writ petition is filed.

The 3rd respondent filed counter stating that the subject land was originally is a government land and the same was assigned to one Merugumala Agnesamma, resident of Erraguntapalli Viallage under landless agricultural poor category and that after her death, her daughters Lilly Manohari and Lilly Baby Sarojini have mortgaged the said land for the purpose of meeting the expenses of cremation of their mother by borrowing money from the petitioner who is an unregistered moneylender. But, the petitioner has illegally registered the said land in his favour with fraudulent intention. Having come to know about the said fact, the respondents issued show cause notices to the legal heirs of the original assignee and to the petitioner on 20.08.2012, for which the legal heirs of the original assignee submitted explanation on 19.08.2012 stating that they have not transferred the said land to the petitioner. But the petitioner did not submit any explanation. It is also stated that the petitioner is a rich landlord having own business deals with realtors and also having lands. Finally, denying the other contentions of the petitioner, sought for dismissal of the writ petition.

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

Though, in the counter it is stated that the petitioner and the legal heirs of the original assignee were issued notices alleging violation of the provisions of Section 9 of the A.P.Assigned Lands (Prohibition of Transfers) Act, 1977 read with Rule 3 of the A.P.Assigned Lands (Prohibition of Transfers) Rules, 2007, the petitioner disputes the same. But the counter is not clear whether any final orders are passed for resumption. Learned Government Pleader produced written instructions dated 15.03.2016, stating that no final orders are passed after issuance of show cause notice dated 20.08.2012. When no final orders are passed in pursuance of show cause notice dated 20.08.2012, the 3rd respondent cannot interfere with the possession of the petitioner.

Since the petitioner disputes the issuance of notice, in order to avoid further controversy, the 3rd respondent shall serve a notice to the petitioner and thereafter the petitioner shall submit explanation. On such explanation being filed by the petitioner, it is open for the competent authority to take appropriate action in accordance with law after giving opportunity to the petitioner as well as legal heirs of the original assignee. It is made clear that if the petitioner does not cooperate and file explanation to the show cause notice to be served by the 3rd respondent, within the stipulated time, it is open for the competent authority to take action. Till such exercise is done *Status Quo* obtaining as on today shall be maintained.

Accordingly, the writ petition is disposed of. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, shall stand closed.

16.03.2016
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A.RAJASHEKER REDDY, J