

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.37668 OF 2016

ORDER:

Heard the learned counsel for the petitioners and the learned Government Pleader for Revenue appearing for respondents. With consent of the counsel appearing for both sides, the present writ petition is disposed of at the admission stage.

2. The present writ petition came to be filed with the following prayer:

“to issue writ or direction preferably Writ of Mandamus declaring the notice issued by respondent No.3 in proc.B/1844/2016 dated 07.09.2016 as illegal, arbitrary, without authority and violative of principles of natural justice and consequently set aside the said notice.”

3. The only ground urged by the learned counsel for the petitioners is that show cause notice is bereft of any reason, as such, the same needs to be set aside. The same is not seriously disputed by the learned Government Pleader for Revenue.

4. In Dasari Narayana Rao Vs. Deputy Collector and Mandal Revenue Officer, Serilingampalli¹, this Court at para No.24 held as under:

“24. In the considered view of this court the show cause notice dated 16.02.2002 is itself invalid. The minimum requirement of a show cause notice, in the context

¹ 2010(4) ALT 655

of an action initiated under the provisions of the 1977 Act is (a) it should assert that there was an assignment of land either under the provisions of the 1977 Act or under any Rules for the time being in force subject to a condition of non-alienation; that such "assigned land" was transferred by such assignee in contravention of the prohibition of alienation clause contained in the deed of assignment; (b) it should assert that the respondent's to the show cause notice had entered upon possession of "assigned land" under a deed of transfer which is invalid under the provisions of Sec.3 of the 1977 Act. The show cause notice must of necessity contain such factual assertions to enable the recipient (of the notice) to rationally respond and submit his objections, if any, to the proceedings initiated against him under the provisions of the 1977 Act. Issuance of a show cause notice is not an empty ritual. It should provide a reasonable and fair opportunity to the recipient of the show cause notice to defend his title and possession of, the valuable right to property."

5. A reading of the impugned order would clearly show that the same is bereft of any reason. It does not say as to whether the assigned land was transferred in contravention of the Act or whether the land has been alienated violating the conditions of assignment. No factual assertions are mentioned in the show cause notice to enable the petitioners to give reply.

6. Having regard to the above, the impugned notice, dated 07.09.2016, is set aside giving liberty to the 3rd respondent – Tahsildar, to issue notice afresh, in accordance with law.

7. Accordingly, the Writ Petition is allowed. Consequently, Miscellaneous Petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

JUSTICE C. PRAVEEN KUMAR

Date:03.11.2016
INL

