

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.No.34923 OF 2012

ORDER:

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This writ petition is filed stating that one Smt.Muniyamma, wife of original pattadar late Narayana Swamy own to an extent of land admeasuring Ac.03-33 cents in Sy.No.68-6 and 69-4C situated at Karuru Village of Krishnagiri group, Advikodeyam Bedu, Chittoor District and the petitioner was working as agricultural labourer in the said land. As such, the petitioner purchased the said land from the wife of original pattadar through registered sale deed document No.940 of 2006, dated 16-10-2006 and the respondents have issued pattadar passbooks and title deeds in favour of the petitioner. Thereafter, the petitioner sold the subject land to Dr.C.Rose through registered sale deed bearing document No.275 of 2007, dated 09-03-2007 and as said C.Rose is a resident of Chennai, the petitioner is continuing the agricultural operations in the said land. The respondents are trying to dispossess the petitioner from the subject land without issuing notice to the petitioner and without following due process of law. Aggrieved by the same, the present writ petition is filed.

Now counter is filed by the 4th respondent stating that land to an extent of Ac.01-75 cents in Sy.No.68/6 assigned to K.Narayana Swamy Naidu S/o.K.Poli Naidu and one Sri B.Ramesh S/o.B.Subbarayulu respectively during the year 1967 and 1985 respectively. Further in respect of Sy.No.69/4C classified as Anadeenam as per fair adangal was assigned to K.Narayanaswamy Naidu s/o.K.Poli Naidu during the year 1967 and after demise of pattadar, deceased wife Smt.Munemma W/o.K.Narayanaswamy Naidu has sold away the land in Sy.No.68/6 an extent of Ac.1-75 cents and Sy.No.69/4c extent of Ac.01-58 cents, total extent of Ac.3-33 cents to one Sekhar S/o.Doraswamy of AK Bedu, village of Pichatur Mandal vide document No.940/2006, dated 16-10-2006 and while taking into account the socio-economic status of the petitioner, he was issued pattadar passbook and title deeds in the year 2006. The petitioner instead of cultivating the said land, has sold away the same to one Dr.C.Rose S/o.Challan of Chennai of Tamil Nadu State through registered sale deed vide document bearing No.274/2007, dated 09-03-2007. During verification, it was found that the said land was not in possession of the assignee. Hence, the Tahsildar, Pichatur issued a notice to Smt.C.Munemma W/o.Late K.Narayanaswamy, C.Sekhar S/o.Doraswamy of A.K.Bedu, H/o.Karuru Village of Pichatur Mandal for violation of condition of D-Form Patta and also to Dr.C.Rose of Chennai. As they failed to submit their explanations, the Tahsildar, Pichatur has passed the orders on 12-05-2010 resuming the land in Sy.No.68/6 an

extent Ac.01-75 cents and Sy.No.69/4C an extent of Ac.01-58 cents, total extent of Ac.03-33 cents to the Government following the due process of law stating that an appeal lies against the said order before Revenue Divisional Officer, Tirupati under Section 4 (a) of A.P. Assigned Land (Prohibition of Transfer) Act, 1977, (for short " the Act") within 90 days from the date of receipt of order. As no appeal filed against the said order, the land was proposed for assignment to the eligible persons.

The subject land is Government assigned land not alienable, which is contravention under Section 3 (2) of the Act. Hence, the land was resumed to the Government under Section 4(1) (a) of the Act. It is stated that Dr.C.Rose is working as Professor in Central Leather Research Institute in Chennai, who is non-resident of Karuru village of Pichatur Mandal, as such, he is not eligible for assignment and sought for dismissal of writ petition.

Reply is filed stating that the petitioner purchased the land admeasuring Ac.01-75 cents in Sy.No.68/6

and Ac.01-58 cents in Sy.No.69/4C total admeasuring

Ac.03-33 cents from Smt.Muniyamma W/o.Late K.Narayanaswamy through registered sale deed bearing document No.940 of 2006, dated 16-10-2006. The said land was not classified as DKT patta and no instructions were issued to the Sub-Registry that the land in Sy.No.68/6 and 69/4C is an assigned land and prohibited from Transfer. After going through the Revenue Records and continuous possession of his vendors, the petitioner has purchased the same. As the petitioner is not getting sufficient income on the said land, he has sold the same to Dr.C.Rose through registered sale deed document bearing No.275 of 2007. Though, admittedly the petitioner is in possession of subject land, no notice was issued to him. It is stated that the petitioner is very much residing in his native village of AK Bedu, Pitchatur Mandal, Chittoor District. Though the land is sold by the petitioner, he is in continuous possession of the same, he is entitled for notice.

Learned counsel for the petitioner submits that though the petitioner sold the land through registered sale deed to Dr.C.Rose, still he is in possession of the same. As such, the petitioner is entitled for notice under Section 4 of the Act and without issuing notice, the respondents cannot evict the petitioner by passing resumption orders and the action of respondents is in violation of principles of natural justice and as such, the writ petition is to be allowed.

On the other hand, the learned Government Pleader for Assignment submits that the petitioner, admittedly, sold the land to Dr.C.Rose vide

registered sale deed and the document itself shows that the possession was delivered to Dr.C.Rose and after issuing notice to Dr.C.Rose and also to the wife of original assignee by name Smt.K.Muniyamma, when they have not filed any explanation resumption order has been passed. As no appeal is filed by either Dr.C.Rose or original assignee against resumption order, the same has become final and the Government has taken possession of the land. Having sold the land, the petitioner has no interest and as such, question of issuing notice to him does not arise.

In this case, it is to be seen that admittedly, the petitioner sold the land to Dr.C.Rose through registered sale deed vide document No.275 of 2007 and the said document itself showing the possession delivered to him. In the writ affidavit, the petitioner says that Dr.C.Rose is a resident of Chennai and as such, the petitioner is looking after the lands on his behalf and continuing the agricultural operations and that is the case, if the petitioner is looking after on behalf of Dr.C.Rose, it cannot be said that possession of the petitioner on his own. Admittedly, the owner and possessor is Dr.C.Rose and after putting him in notice, the resumption orders were passed. But said C.Rose has not filed any appeal against the resumption orders. Having sold the land through registered sale deed, the petitioner has foregone his rights in his land. As such, the petitioner cannot contend that he is entitled for notice. The Government Pleader also produced the original assignment register shows that subject land is assigned land.

Having regard to the above, I do not see any merit in the writ petition and the same is liable to be dismissed.

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

A.RAJASHEKER REDDY,J

14-03-2016
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