

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 22903 of 2011

ORDER:

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The present writ petition came to be filed seeking issuance of writ of mandamus declaring the order vide Proc.No.B/1436/2006, dated 02.03.2007 issued by the Tahsildar, Toopran Mandal (second respondent) as illegal, arbitrary and violative of principles of natural justice.

The petitioner claiming to be the owner and possessor of the land admeasuring Ac.3.23 gts., in Sy.No.354/82 and 354/77/1 of Muppireddypalli Village, Toopran Mandal, Medak District, having purchased the same from Major K.M.Augustine through registered sale deed bearing document No.2288 of 2000 dated 28.08.2000, who inturn purchased the said property from Smt. Manju Sunil vide registered sale deed bearing No.2125 of 1999 dated 06.12.1999. It is stated that the said Manju Sunil had purchased the said land from its original allottees namely Ch.Ramachandra Reddy and Mr.M.D.Jaan vide document No.4391 of 1995 dated 06.12.1995. The name of the petitioner is said to have been mutated in the revenue records and pattadar pass book was also issued in his favour. When the respondents were interfering with the land of the petitioner, he said to have filed W.P.No.12374 of 2008 before this Court. Initially this Court granted *status-quo* later the said writ petition was disposed of with a direction to prefer an appeal against the order dated 02.03.2007 before the appropriate forum within a period of six weeks from that day. It appears that without filing appeal as directed by this Court, the petitioner herein preferred the present writ petition questioning the order dated 02.03.2007 on the ground that no notice and no personal hearing was given to him before passing the impugned order. It is

further stated in the affidavit that the purpose for which the land was sought to be resumed is not reflected in the order except in the preamble stating that it was for public purpose. It is further contended that though the land stands in the name of the petitioner, the authorities intentionally failed to serve notice on him as such it is urged that the entire proceedings are liable to be quashed.

A counter came to be filed by the Tahsildar, Toopram Mandal (second respondent) denying the averments made in the affidavit filed in support of the writ petition. It is the case of the Tahsildar that the Government has decided to establish an automotive park at Muppireddypally Village to facilitate development of backward area and create employment to the educated un-employees. Accordingly, notices were issued to all the assignees including the petitioner but neither the petitioner nor his vendor submitted any explanation within the stipulated time. It is stated that there was no response from the petitioner and the assigned land has been resumed by following due procedure. It is further stated in the counter that the original allottee sold away the allotted government land in favour of the petitioner within ten years, thereby violating the conditions of G.O.Ms.No.1117, Revenue (Assignment-I) dated 11.11.1993. It is also stated in the counter that the admission of the petitioner that the land in question was allotted to the original allottees in the year 1993 and they sold away the land to Smt. Manju Sunil vide document No.4391 of 1995 would show that the original allottees have violated the conditions of the said G.O. It is further stated in para No.5 of the counter that the resumption orders were served on the counsel for the petitioner while hearing of W.P.No.12374 of 2008 and as such it cannot be said that the impugned order was never served on him. Having regard to the circumstances, it is stated that there are no merits in the writ petition.

A perusal of the material placed before the Court would show that the present writ petition came to be filed challenging the

impugned order dated 02.03.2007, wherein the Government resumed the land for public purpose. It is true that body of the order does not anywhere show the purpose for which the land is sought to be resumed. The counsel for the petitioner submits that no notice was issued to the petitioner and the impugned order was also not served on him, enabling him to take appropriate steps in accordance with law. A reading of the order of this Hon'ble Court, dated 27.07.2011 passed in W.P.No.12374 of 2008 would show that in the counter filed in the said writ petition it was specifically stated that the land was assigned and resumption order was passed vide proceedings dated 02.03.2007. This Court held that since the order dated 02.03.2007 was not challenged, permitted the petitioner to file an appeal against the impugned order before the appropriate forum within six weeks from that day. Further, this Court ordered *status-quo* to be maintained with regard to possession for a period of eight weeks. Though the petitioner came to know about the said order in the year 2011 itself and the said order being made part of the record in this writ petition, which was filed on 11.08.2011, no steps are taken by the petitioner in preferring an appeal against the impugned order as directed by this Court earlier. Now the counsel for the petitioner contends by raising various grounds in this writ petition, which require to be considered. It is to be noted that if the petitioner is aggrieved by any of the orders passed by the Tahsildar, statute provides a remedy of appeal against the said order before the Revenue Divisional Officer under Section 4-A of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977. As stated earlier, this Hon'ble Court while rejecting the request made in W.P.No.12374 of 2008, directed the petitioner to prefer an appeal.

The Apex Court in **Commissioner of Income Tax v.Chhabil Dass Agarwal**^[1] held that “*the High Court will not entertain a petition under Article 226 of Constitution, if an effective alternative*

remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance still holds the field. Therefore, when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation.”

In view of the judgment referred to above and having regard to the facts and circumstances of the case, I see no merit in the writ petition and the same is accordingly disposed of, leaving it open to the petitioner to avail the remedies available under law. No order as to costs.

Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

09.02.2016
gkv

[\[1\]](#) (2014) 1 SCC 603