

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.1043 OF 2012

ORDER :

This writ petition is filed assailing the proceedings of the 2nd respondent in D.Dis.No.1174/2006 (D), dated 22.12.2011, wherein the Revenue Divisional Officer has confirmed the order of the Mandal Revenue Officer passed in RC No.77/2006, dated 10.04.2006 resuming the land from the petitioners on the ground that they have purchased from the assignees and same is in violation of the provisions of the A.P. Assigned Lands (Prohibition of Transfer) Act, 1977 (for short 'the Act of 1977').

Originally, an extent of Acs.3.30 cents of agricultural land situated in Sy.No.763-2 of Somandepalli Village & Mandal of Anantapur District was assigned in favour of one Vetti Narasappa. The legal heirs of said Vetti Narasappa i.e., Pedda Muthyalappa and Chinna Muthyalappa sold an extent of Ac.1.80 cents out of Ac.3.30 cents of land to one Harijana Kunteppa in the year 1965 through registered sale deed. Subsequently, said Harijana Kunteppa sold the above land to one C.Venkateswara Rao through registered sale deeds, from whom the 1st petitioner purchased an extent of Ac.1.00 cents on 16.09.2003 and 2nd petitioner purchased an extent of Ac.0.30 cents on 24.02.2004. Since then the petitioners are in possession of the subject property. While so, the 3rd respondent issued notice in Form No.I in Rc.No.77/06/B, dated 31.1.2006 to the petitioners as to why the subject land shall not be resumed to the Government for

contravening the provisions of the Act 9 of 1977. Though the petitioners filed all the documents stating that the subject land was originally assigned in the year 1929 without imposing any condition about the alienation, the 3rd respondent passed impugned orders dated 10.04.2006 and same was confirmed by the 2nd respondent in the appeal preferred by the petitioners vide proceedings dated 22.12.2011. Aggrieved by the same, present writ petition is filed.

Heard learned counsel for the petitioners and learned Assistant Government Pleader for Revenue appearing for the respondents.

Learned counsel for the petitioners submit that admittedly, the land was originally assigned on 25.08.1929 and there is no prohibition of alienation of assigned lands in the assigned patta, as such, the provisions of the Act of 1977 have no application. He also submits that out of Acs.3.30 cents assigned to original assignee i.e., Vetti Narasappa, proceedings were initiated under the Act of 1977 only in respect of Acs.2.00 and same were dropped vide proceedings in Rc.No.540/91/A1, dated 24.12.1993.

A perusal of the impugned proceedings dated 22.12.2011 passed by the 2nd respondent, it is found that the original assignee i.e., Vetti Narasappa of Somandepalli was granted patta vide D.A.No.1037/28, dated 25.08.1929.

As per G.O.Ms.No.1142, dated 18.06.1954, alienation of assigned lands was prohibited only from 1954 onwards. Admittedly, the assignment was in the year 1929 and in the

orders of both authorities i.e., appellate authority and revisional authority, there is no specific reference with regard to the conditions mentioned in patta prohibiting the alienation of subject lands. Since there is no prohibition for alienation of assigned lands in the year 1929 and the said prohibition was introduced for the first time only in the year 1954 by way of G.O.Ms.No.1142, dated 18.06.1954, it cannot be said that the petitioners have violated the conditions of patta attracting Section 3(5) of the Act of 1977. As such, the impugned proceedings are liable to be set aside and accordingly set aside.

Accordingly, this writ petition is allowed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, shall stand closed.

22.11.2016
kvs



A.RAJASHEKER REDDY, J

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