

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.124 of 2016

ORDER:

Heard.

The petitioner questions the impugned notice, dated 19-06-2015 issued by the 3rd respondent requiring as many as 18 persons including the petitioner to appear before him by filing explanation. Questioning the said notice, one of the addressees in the said notice filed the present writ petition.

The petitioner states that he is in possession and enjoyment of the land admeasuring Ac.2-50 cents in Sy.Nos.947-3, 947-4 and 984-2 situated at Nizampatnam Village and Mandal, Guntur District. He also states that the assignment patta was given to him in the year 2008 by the then Tahsildar. While so, the impugned notice was issued to him. The petitioner states that the impugned notice does not contain any necessary particulars and he is unable to submit any explanation in the absence of any particulars. He denies the allegation that he has taken land on lease from any person and submits that the 3rd respondent is threatening to initiate criminal proceedings under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and to dispossess him by using police force. Hence, the present writ petition is filed.

A reading of the impugned notice does not show any provision or any details of the lands and as to who made complaint and what is the basis for issuing the impugned notice.

Learned Government Pleader for Revenue appearing for the respondents has secured instructions from the 3rd respondent and states that some persons claiming to be the assignees have made a complaint to the 3rd respondent that they have leased out the land to all the addressees in the notice and for the last two years, they have not paid lease amount. Hence, in order to verify and conduct enquiry, the 3rd respondent is stated to have given notices, dated 11-03-2015 to both the parties and some of the

addressees having appeared and some being not appeared, he has given another notice, which is impugned herein. It is stated that the notices were given for conducting detailed enquiry to know the real facts. The instructions also state that some of the lands were alienated to VANPIC Project vide G.O.Ms.No.1115, dated 16-09-2008 and the said lands are under investigation by Enforcement Directorate, Hyderabad and also CBI, New Delhi. It is also stated that after receipt of instructions from the Government, appropriate action would be taken.

It is obvious that the Tahsildar cannot enquire into the grievance of the alleged lessors for non-payment of lease amount. Further, the 3rd respondent is not able to verify and state as to whether any assigned lands are alienated and whether the petitioner is the assignee or alienee. Therefore, all these matters are for the Tahsildar to verify from the record and issued appropriate proceedings, if it is so warranted under law. If there is any alienation of assigned land, it is open to the revenue authorities to take appropriate action in accordance with the provisions of the A.P.Assigned Lands (Prohibition of Transfers) Act, 1977. However, the present notice is neither falling under the said Act nor can be considered as a notice for any matter within the jurisdiction of the 3rd respondent, as the notice is bereft of necessary details.

In my view, the petitioner cannot be subjected to roaming and fishing enquiry by the 3rd respondent and cannot be dispossessed without following due process of law. Hence, the impugned notice is passed beyond the jurisdiction of the 3rd respondent. However, this order will not preclude the 3rd respondent from examining the record and if there is any prima facie case for violation of the the A.P.Assigned Lands (Prohibition of Transfers) Act, 1977, it is open for him to take appropriate action against the persons concerned including the petitioner. But, till such action is taken, the physical interference of the petitioner's land, as claimed in the prayer, cannot be appreciated.

Therefore, writ petition is allowed setting aside the impugned notice.
No costs.

Miscellaneous petitions, if any, pending shall stand closed.

VILAS V.AFZULPURKAR, J

Date: 05-01-2016

Prv

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.124 of 2016

05-01-2016

Prv