

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No.4321 OF 2011

ORDER:

The order dated 19.08.2011 passed in E.P.No.18 of 2010 in O.S.No.25 of 2004 by the learned Principal Senior Civil Judge, Narasaraopet, is challenged before this Court.

The learned counsel Smt. Nargis Afshan Khan, representing on behalf of Sri Fazal Yousufuddin, learned counsel for the petitioner, urges that the Court below erred in ignoring the *factum* of the land, which was attached and which was sought to be sold in execution proceedings, is admittedly assigned land and in view of the prohibition contained in A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 (in short "the Act") the execution proceedings ought to have been dismissed. The learned counsel for the petitioner also relied on the judgment of this court in **Vaka Punnamma Vs. Yadavalli Jurala Narasimham**^[1]. Placing reliance on the said judgment learned counsel urges that the court below failed to appreciate the statutory prohibition contained in the Act and in that view of the matter learned counsel prays for setting aside of the order impugned.

On the other hand Sri I. Gopal Reddy, learned counsel appearing for the respondent-decree holder submits that the Court below while allowing the execution petition had taken into consideration of the fact the prohibition contained in the patta document is only for 10 years and that the Court below had taken into consideration of this crucial aspect and the law declared in **Venkata Ramanayya and others Vs. T.M. Chalapathi**^[2].

Having considered the rival submissions and the facts of the case, the judgment referred to by the learned counsel for the petitioner this Court finds **Vaka Punnamma case** (1 supra) has no application to the case on hand. In the said judgment the question whether the particular patta document had an inalienable clause or not was not considered and at least whether such question was raised and decided is not discernable from the judgment. In those circumstances and going by the tenor of the judgment it has to be presumed in the judgment there was no clause either permitting or prohibiting the alienation. If there is no clause restricting the alienation for a particular period the presumption in law is that the assigned land is inalienable and the prohibition contained in the Act 9 of 1977 would spring into the action. In the case on hand learned Senior Civil Judge as a matter of fact and after examining the patta document and by reference to the condition of the patta document, had written a finding that there was a prohibition with respect to the alienation for a period of 10 years, thereby implying that the prohibition contained in the patta document seizes after 10 years. The patta document itself came to be granted in the year 1989. Therefore, the prohibition contained would seize automatically by 1999. The impugned order was passed on 19.8.2011 by which date there was no impediment for transfer. In that view of the matter, the judgment cited by the learned counsel for the petitioner is distinguishable and does not apply to the facts of the present case. In the facts of the present case there being no error of either of law or of a fact the Civil Revision Petition does not deserve for consideration. Accordingly the same is dismissed.

However, considering the fact petitioner constructed a house, the petitioner may approach the Court below seeking

appropriate instalments to satisfy the decree debt. As and when the petitioner makes an application the same shall be considered in accordance with law and on merits and pass appropriate orders.

There shall be no order as to costs. Consequently, the miscellaneous petitions pending, if any, shall also stand closed.

CHALLA KODANDA RAM, J

Dated: 29.01.2016
Ssv

[\[1\]](#) 2001 (1) ALT 362

[\[2\]](#) 2007 (3) LS 116