

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.18221 OF 2011

ORDER :

This writ petition is filed seeking writ of mandamus declaring the action of the 3rd respondent in not considering the representation of the petitioners by entering the names of the petitioners in the place of the 4th respondent in the Adangal for the 1420 fasli as per the directions of this Court dated 24.1.2011 in WP No.32387 of 2010 and issuing the Form I Notice under Rule 3 of A.P. Assigned Lands (Prohibition of Transfers) Rules, 2007 alleging the petitioners have transferred the lands to the 4th respondent as illegal and arbitrary and set aside the impugned proceedings of the 3rd respondent vide Rc.B.No.1056/2010, dated 04.06.2011 and consequently to direct the respondents not to interfere with the peaceful possession and enjoyment of the land belonging to the petitioners to an extent of Acs.3.26 cents situated in Sy.No.976/3 of Thikkavaram Village, Chillakur Mandal, Sri Potti Sriramulu Nellore District.

Heard learned counsel for the petitioners and learned Assistant Government Pleader for Revenue appearing for the respondents 1 to 3 and Sri P.krishna Reddy, learned counsel for the 4th respondent.

Learned counsel for the petitioners submits that after the death of original assignee i.e., Kavali Ragaiah, the land was transferred in the name of the father of the original assignee i.e., Kavali Chattaiah. Sri Kavali Chattaiah also died on 14.04.2000,

as such, issuance of notice against dead person is null and void. He also submits that after the death of petitioners' father Kavali Chattaiah, who was assigned land in the year 1996 after the death of original assignee, Kavali Ragaiah, the petitioners succeeded the property. He submits that the petitioners filed W.P.No.32387 of 2010 seeking direction to delete the name of the 4th respondent and same was disposed of on 24.01.2011. In pursuant to orders in the said writ petition, notices were issued to the petitioners and 4th respondent fixing the enquiry on 04.06.2011. Without deciding the issue, the present impugned notice was issued, which is illegal.

It is a fact that original assignee Kavali Ragaiah died and after his death, the land was assigned in the name of Kavali Chattaiah, who is father of the original assignee. The death of Kavali Chattaiah is not disputed in the counter affidavit. It is also not in dispute that the father of petitioners was granted patta in respect of the subject land. On 14.04.2000, the father of the petitioners i.e., Kavali Chattaiah also passed away. Now, the petitioners being the legal heirs of Kavali Chattaiah are in possession of the subject property, as such, the impugned notice issued in the name of dead person is illegal and void *ab initio*.

Since the death of original assignee i.e., Kavali Ragaiah is not in dispute, this Court is of the opinion that, without going into the merits of the case, impugned notice is liable to be set aside and accordingly set aside. However, this order will not preclude the competent authority from issuing notice to the

petitioners and petitioners can raise all their objections as raised in this petition.

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

A.RAJASHEKER REDDY, J

10.11.2016
kvs



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Date: 10 .11.2016

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