

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.31529 of 2011

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue appearing for respondent

Nos.1 to 3.

2. This Writ Petition has been filed by the petitioner assailing proceedings in Rc.No.A2/130/2007 dt.12-07-2007 under the AP Assigned Lands (Prohibition of Transfers) Act, 1977 (Act 9 of 77) directing the petitioner to be dispossessed from the subject land on the ground that the petitioner has purchased the land which was assigned to certain persons.

3. Petitioner contends that the subject land had been granted assignment in 1940, and from the said assignees the petitioner's vendor obtained it, and thereafter petitioner purchased it under registered sale deeds dt.19-07-1995 and 09-02-1998. Petitioner contends that the impugned order passed by 3rd respondent is without jurisdiction because the land having been assigned in 1940, prior to the promulgation to the Board Standing Orders on 18-06-1954, the provisions of the AP Assigned Lands (Prohibition of Transfers) Act, 1977 have no application and the provisions of the said Act would apply to the land obtained after 1954. He also

placed reliance on the judgment of this Court in **G.Satyanarayana Vs. The Government of Andhra Pradesh**^[1].

4. In the said judgment, this Court held that the term “assigned land”, defined in Section 2 (1) of the Act, means land assigned by the Government to landless poor persons subject to condition of non-alienation. So in order to attract the bar of the Act, there has to be a condition of non-eligibility in the assignment. It held that if the assignment of land is prior to 1940, there would not be any condition of non-alienation since such condition was imposed for the first time by the Government only vide G.O.Ms.No.1142 dt.18-06-1954 in respect of Andhra area. Therefore, the provisions of the AP Assigned Lands (Prohibition of Transfers) Act, 1977 do not apply.

5. Learned Government Pleader for Assignment appearing for respondents does not dispute this legal position. He however states that the petitioner approached the Court below without availing the remedy of the appeal and the land had subsequently been taken possession by the Government and is in the custody of the Government.

6. It is true that the Writ Petition has been filed with some laches without availing the remedy of appeal under the provisions of the Act. But it is settled law that in

all cases relief under Article 226 of the Constitution of India cannot be denied on the ground of laches and that delay or laches by itself without more would not be sufficient to shut the doors of the Court on any petitioner where serious illegality is pointed out by the litigant. (see [Tukaram Kana Joshi Vs. MIDC](#)^[2]). Since admittedly the impugned order passed by 3rd respondent is in relation to an assignment which is admitted in the counter affidavit filed by 3rd respondent as one made in 1940, in view of the decision cited supra, it is clearly without jurisdiction.

7. Therefore notwithstanding laches on the part of the petitioner, and also since no third party rights have intervened, the Writ Petition is entertained and it is allowed; the order dt.12-07-2007 in Rc.A2/130/2007 of 3rd respondent is set aside; and the respondents are directed to restore possession of the subject land of the petitioner. No costs.

8. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 05-08-2016
KVR

^[1] 2011 (3) ALD 571

^[2] (2013) 1 S.C.C. 353