

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.16497 of 2016

Dated : 19.05.2016

Between:

Vojjala Venkateshwar, S/o Gundaiah,
Age: 47 years, Occ: Business,
R/o H.No.3-297, Kouthala Village
and Mandal, Adilabad District.

.. Petitioner

And

The State of Telangana,
R/by its Principal Secretary,
Revenue Department,
Secretariat Buildings,
Hyderabad and three others.

.. Respondents

Counsel for the Petitioner : Sri K.Venumadhav

Counsel for the Respondents : G.P. for Revenue

This Court made the following :

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.16497 of 2016

ORDER :

Petitioner is aggrieved by the order passed by the Tahsildar dt.14.05.2016 to take over possession of the subject land of the petitioner.

2. The Tahsildar passed the above order in exercise of power vested in him under the provisions of A.P. Assigned Land (Prohibition of Transfers) Act, 1977 (for short 'the Act') holding

that the assignee illegally sold the land to the petitioner in violation of the provisions of the Act and therefore such alienation is void and as such the Government is entitled to take possession of the subject land.

3. The Government Pleader for Revenue appearing for the respondents submits that against the order passed by the Tahsildar an appeal lies under Section 4(1) of the Act to the Revenue Divisional Officer and without exercising the said remedy, this writ petition is filed.

4. As seen from the provisions of the Act, appeal lies to the Revenue Divisional Officer against the decision of the Tahsildar under Section 4(1) of the Act.

5. When substantive right is created to an aggrieved person by the Act, without exercising the said right, the petitioner cannot file the Writ Petition directly. Ordinarily this Court does not entertain Writ petition filed without exercising statutory remedy. Further when effective and efficacious remedy of appeal is available to the petitioner, it is always open to the aggrieved party to seek further direction therein for continuation of possession pending appeal, but he cannot directly rush to this court under Article 226 of the Constitution of India even before filing the appeal.

6. At this stage, counsel for the petitioner submits that petitioner may be given liberty to file appeal along with application seeking interim suspension of the impugned order.

7. Having regard to the above, this Writ Petition is disposed of granting liberty to the petitioner to file appeal before the Revenue Divisional Officer against the order of the Tahsildar dt.14.05.2016 and also to file application for interim relief for continuation of

possession pending disposal of the appeal. As and when such an appeal along with interim application is filed, the Revenue Divisional Officer shall consider and pass appropriate orders in the said appeal as expeditiously as possible. However, the Revenue Divisional Officer shall pass orders on the interim application within a period of three (03) weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

8. Miscellaneous petition, if any, pending in this writ petition, shall stand closed.

P.NAVEEN RAO, J

19.05.2016.

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