

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.25923 of 2016

ORDER:

This Writ Petition is filed questioning the inaction of the respondents in granting stay pending appeal filed under Section 4-A of the A.P. Assigned lands (Prohibition of Transfers) Act, 1977 (in short "the Act") on 02.06.2016, against the order bearing RC.B.139/2016, dated 25.04.2016 of the 3rd respondent.

The case of the petitioners is that prior to the year 1930 one G.Venkata Swamy @ Ankalu, who was an ex-serviceman, was assigned with the land an extent of Ac.3-54 cents in Revenue Ward No.1, Block No.6, NTS No.369/2 of Vidyadharapuram, Vijayawada and after laps of more than 15 years, from the date of assignment of land, he alienated the said land to various persons including the petitioners under various registered sale deeds and they are in possession and enjoyment of the same by constructing houses in the said lands. While the matter stood thus, the 3rd respondent issued Form-II Show Cause Notice under Rule 3 of the A.P. Assigned Lands (Prohibition of Transfers) Rules, 2007 (in short "the Rules"), to show cause as to why they should not be evicted from the assigned lands and granted 15 days time to the petitioners, for which the petitioners have submitted their reply dated 11.04.2016. However, neither considering the contents of reply nor giving an opportunity of hearing, the 3rd respondent issued the impugned order dated 25.04.2016 calling upon them to vacate the premises in their possession and the constructions erected on the land are forfeited to the Government. Aggrieved by the same, the petitioner filed W.P.No.16108 of 2016 and this court by an order dated 12.05.2016 suspended the proceedings dated 25.04.2016 for a period of 12 weeks with a liberty to file appeal within four weeks from that day and liberty was given to the petitioner to obtain appropriate orders from the appellate authority in the

meantime. However, though the petitioners had filed appeal before the 2nd respondent-Revenue Divisional Officer on 02.06.2016 seeking stay of the proceedings pending disposal of the appeal, the said appeal was not taken up by the Appellate Authority. Hence the present Writ Petition.

Heard the learned counsel for the petitioners and the learned Government Pleader for Revenue and the Learned Government Pleader for Assignment.

Having perused the records, as per the liberty granted by this Court, by an order dated 12.05.2016 in W.P.No.16108 of 2016, the petitioner had filed their appeal before the appellate authority within four weeks time i.e., on 02.06.2016 and the stay granted for a period of 12 weeks has also been elapsed, but the appellate authority neither taken up the appeal nor passed stay of proceedings. Therefore, basing on the ratio laid down in **Anab-E-Shahi Wines and another vs. Deputy Commissioner**^[1], wherein it was held that it would be unreasonable if the stay is not granted when the appeal is pending before the lower authorities, and contended that the order of the primary authority as well as the appellate authority are liable to be interfered with, it would be appropriate to direct the appellate authority to dispose of the appeal as expeditiously as possible. However, in the interregnum period to prevent the dispossession of the petitioners from the subject land, interest of justice would be served in granting stay of the order of the lower authorities.

Accordingly, the Writ Petition is disposed of directing the 2nd respondent-Revenue Divisional Officer to dispose of the appeal itself in a time bound manner. As the right of appeal being a statutory right and in view of the judgment of this Court in **Anab-E-Shahi Wines** case (1 supra) I deem it appropriate to grant stay of the order dated 25.04.2016, passed by the 3rd respondent-Tahasildar, Vijaywada Urban Mandal, pending disposal of the appeal by the 2nd respondent-

Revenue Divisional Officer, Vijaywada Urban.

As a sequel, pending miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

CHALLA KODANDA RAM, J.

Date:10.08.2016
ssv

[\[1\]](#) (1995) 98 STC 386 (AP)