

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

WRIT APPEAL No.1073 of 2016

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

The appellant herein is the petitioner in W.P. No. 10327 of 2004. This appeal, under Clause 15 of the Letters Patent, is preferred by him aggrieved by the order passed by the learned Single Judge in W.P. No. 10327 of 2004 dated 26.8.2016, dismissing the writ petition.

The fact that the subject lands are assigned lands is not in dispute. It is also not in dispute that the appellant had purchased the assigned lands in the year 1998. On the ground that the Mandal Revenue Officer, Toopran, by his order dated 16.9.1998, had cancelled the patta on the ground that the appellant had unauthorizedly occupied assigned lands, the appellant invoked the jurisdiction of this Court, and an order of status-quo was passed in the year 2004. By an elaborate order, the learned Single Judge upheld the action of the 1st respondent, in cancelling the patta, holding that the 1st respondent had the power to do so under the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act 9 of 1977') and BSO No. 15.

The respondents herein, in their counter affidavit filed before the learned Single Judge, had stated that they had issued a notice for eviction on 13.6.1998 itself. While Sri K. Goverdhan Reddy, learned counsel for the appellant, would contend that the impugned order is only for cancellation of the patta, and not for resumption of the land, the fact remains that

the appellant did not dispute the averments in the counter affidavit by way of a reply thereto. As the specific assertion of the respondents herein, in their counter affidavit that they had issued a notice for eviction, is not in dispute, the impugned order can only be an order of resumption, and has been rightly understood to be one such by the learned Single Judge.

By virtue of the order of status-quo passed during the pendency of the writ proceedings, the subject lands, though under the possession of the Government, have neither been re-assigned to the original assignee nor have they been put to any other use. In the interregnum, by Act 21 of 2008, Section 4(1)(b) was inserted in the Act. Section 4(1)(b)(i) confers power on the District Collector, or any other Officer not below the rank of a Mandal Revenue Officer, to re-assign the resumed lands, other than those lands/areas as may be notified by the Government from time to time, in public interest and for public purpose, to the transferee who purchased the property in good faith and for valuable consideration on or before 29.1.2007, subject to the condition that he/she is a landless poor person, and is in occupation of the land by using the land for agriculture or as house site, as on the date of taking possession by eviction. Under the first proviso thereto re-assignment, in the case of a transferee, shall be limited only to such an extent that the total holding of the reassignee, including any other land held by him/her, does not exceed 5.00 acres of dry land or 2½ acres of wet land.

In view of the aforesaid amendment to Section 4(1), and insertion of sub-section (b)(i) thereto, we consider it appropriate

to dispose of the appeal, permitting the appellant to submit a representation to the District Collector, Medak seeking re-assignment under Section 4(1)(b(i) of Act 9 of 1977. On receipt of such a representation, the District Collector, Medak shall pass orders in accordance with law at the earliest and, in any event, not later than three months from the date of receipt of the representation. The miscellaneous applications shall stand closed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(A. SHANKAR NARAYANA, J)

24th October, 2016

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Date: 24.10. 2016

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