

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No.17375 OF 2008

ORDER:

This Writ Petition is filed challenging the proceedings, dated Nil-07-08, directing the Mandal Revenue Inspector, Additional Revenue Inspector, S.V. Puram, to make necessary changes in the revenue records regarding restoration of the subject lands.

2. Heard learned counsel for the petitioners.

3. Though counter is filed raising various grounds, a reading of the impugned proceedings goes to show that they were issued in printed formats and without any application of mind. Further, as contended by the learned counsel for petitioners, the Tahsildar, Vadamalapeta Mandal, Chittoor District, has no power to issue the impugned proceedings and it is the District Collector, who is empowered to take action as per paragraph No.18 of Board Standing Order No.15 for cancellation of the assignment. Learned counsel for the petitioners also asserts that no notices were issued and no opportunity of hearing was given to the petitioners and in support of his contentions, he placed reliance on the decisions of this Court in **Muppalaneni Srinivasa Rao v. Government of Andhra Pradesh**

and others¹ and V. Subbayamma v. Joint Collector, Additional District Magistrate, Guntur and others².

4. In **V. Subbayamma's case** (supra 2), it is held thus:

"18. In my opinion, the initial burden lies on the competent authority under Section 4 of the Act to prove that the land was transferred in violation of the conditions of assignment/allotment. Unless this burden is discharged based on the relevant material, the order of resumption cannot be sustained in law.

19. In the instant case, both respondent Nos.1 and 3 have skirted the issue as to whether the land in question is an assigned land. As noted hereinbefore, respondent No.3 has shown dots under the column "Name of assignee". Respondent No.1 having framed the point, has failed to discuss and render a finding thereon. Therefore, the respondents have failed to discharge their initial burden in proving that the land in question is an assigned land and that the same was sold in violation of the conditions of assignment/allotment. Hence, the very initiation of the proceedings under the Act is without jurisdiction. The orders of the respondents cannot, therefore, be sustained in law and they are, accordingly, quashed."

5. In view of the same, without going into merits of the case, the impugned proceedings, dated Nil-07-08, are set aside. However, this order will not preclude the competent authority from taking action in accordance with law.

¹ 2013 (2) ALD 343

² 2013 (6) ALD 46

6. With the above direction, the Writ Petition is allowed. The respondents are directed not to dispossess the petitioners from the subject lands without following due procedure. Miscellaneous Petitions, if any, pending in this Writ Petition, shall stand closed. There shall be no order as to costs.

A. RAJASHEKER REDDY, J

January 03, 2017
MD

