

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.28589 OF 2017

DATED : 08.09.2017

Between :

Dr.K.Rajagopal Rao, S/o.Kodali Prasad Rao,
Age : 63 yrs, R/o.Plot No.12B, Road No.10,
Bharathnagar, Vijayawada.

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Petitioner

And

The State of Andhra Pradesh,
Rep., by its Principal Secretary,
Revenue Department,
Velagapudi, Andhra Pradesh & others.

...

Respondents



This court made the following :

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ORDER :

Heard.

2. Petitioner claims that he purchased plot No.38 in an approved UDA Lay out L.P.No.25/89 admeasuring 266.67 Square yards in R.S.Nos.177/3, 177/B3A, 178/3 from Sajja Ram Mohan Rao and Kakarla Raveendra Babu acting as GPA holders of Mr.Maddukuri Balakrishna on 16.10.2006 vide registered sale deed No.5024/2006. Petitioner traced the history of flow of title. Petitioner claims that after purchase of the said plot, petitioner has been in possession and enjoyment of the said plot. Alleging that the conditions of assignment were violated, therefore, the assignment should be cancelled and the subsequent purchaser should be evicted from the property, proceedings under the Andhra Pradesh Assigned Lands (Prohibition of Transfer) Act, 1977 (for short 'the Act, 1977'), was initiated. It appears a show cause notice was issued. Alleging that there was no response to the said show cause notice and that whereabouts of the petitioner were not known, final order was passed on 21.07.2017. The final order would show that the present occupier i.e., the petitioner has not submitted his written explanation, within the stipulated time holding that the assignment conditions are violated and that there was no explanation, the order was passed under Section 4 (1) of the Act, 1977, to take possession of the assigned land. It is recorded that notice dated 06.07.2017 was served by affixing on the wall situated in the said land, before the panchanamadars, as

the present occupier is not residing in the village and his whereabouts are not known.

3. It is the first and foremost submission of learned counsel for petitioner that he was not afforded opportunity of hearing before passing the impugned order. On the contention of whereabouts of the petitioner were not known, learned counsel for the petitioner submits that earlier an endorsement was issued to the petitioner by the very same Tahsildar on 22.04.2017 sent to the same address where the petitioner is residing and therefore, it cannot be said that the Tahsildar was not aware of the address of the petitioner in order to send a notice to the petitioner. Therefore, the observation of the Tahsildar that petitioner's whereabouts are not known and that he did not respond to the notice, affixed on the property is erroneous.

4. Having regard to these submissions, learned Assistant Government Pleader, on instructions, fairly submits that the order dated 21.07.2017 shall be treated as show cause notice and petitioner be directed to submit explanation to the said show cause notice.

5. At this stage, learned counsel for the petitioner submits that certain documents are referred to and relied upon in the order to hold that assignment earlier granted is violated and petitioner intends to have the copies supplied to him, in order to file an effective reply to the show notice.

6. Having regard to these submissions, the Writ Petition is disposed of, directing the Tahsildar, Penamaluru Mandal, Vijayawada, Krishna District, to treat the order dated 21.07.2017 as show cause notice. Petitioner is permitted to file an application

requesting to furnish list of documents which are required for the purpose of submitting his explanation. Such request shall be made within ten (10) days from today. On receipt of such request, the Tahsildar shall furnish all the documents as requested by the petitioner. If no such request is received within the time granted the Tahsildar need not supply the documents. On furnishing the documents, petitioner shall file his explanation within two (2) weeks thereafter. On submitting explanation if any, the Tahsildar shall consider the same and pass appropriate orders by assigning due reasons, in support of his decision, as warranted by law and communicate the same to the petitioner. If no such explanation is filed within the time granted, it is open to the Tahsildar to pass orders based on the material available on record. The possession of the petitioner on the subject property, as obtaining as on the date of issuance of show cause notice shall be restored and be continued till the issue is decided as directed above. There shall be no order as to costs.

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

8th September 2017
Rds

P.NAVEEN RAO,J