

HON'BLE SRI JUSTICE S.V.BHATT

W.P.No.20313 OF 2014

ORDER:

Heard Mr.B.Vijay Bhaskar for petitioner, the Assistant Government Pleader (Revenue) for respondents 1 to 5 & 7 and Mr.M.Ganga Rao for respondent No.6.

The petitioner challenges orders R.Dis.(E2)/2515/2008 dated 21.07.2012 and D.Dis.(E) 308/2008 dated 03.07.2008 of 3rd and 4th respondents respectively, as illegal, arbitrary and without jurisdiction.

The orders impugned in the writ petition are passed under the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'POT Act') and the A.P. Rights in Land and Pattadar Passbooks Act, 1971.

The circumstances relevant for the disposal of the writ petition are that the petitioner claims to be owner and possessor of agricultural land in Sy.No.922/2 an extent of Acs.04-94 Cts of J.M.Thandra, H/o Dudekonda Village, Pattikonda Mandal, Kurnool District. According to him, the subject matter of the writ petition was assigned in favour of one Hebbe Naik, s/o late Amre Naik vide DKT No.684/DR/81 dated 22.05.1973. The assignee under an unregistered relinquishment deed dated 16.01.1979 transferred the subject land in favour of his brother Sugali Machala Naik. Through unregistered sale deed dated 11.02.1985, the petitioner purchased the subject land and is in possession and enjoyment of the same. The respondents issued pattadar passbook/title deed to petitioner.

While matters stood thus, the petitioner for the purpose of availing agricultural loans applied to respondents for grant of D-form patta and D-form patta was also issued. Thereafter, after examining the record, the 5th respondent forwarded communication Rc.No.(C)45/06 dated 14.02.2008 to 4th respondent herein. Through the instant letter, the 5th respondent intimated 4th respondent that Hebbe Naik is the assignee and assignment in favour of petitioner is a bogus assignment. The 4th respondent called for explanation from petitioner as well and through order dated 03.07.2008 cancelled assignment, pattadar passbook/title deed and directed 5th respondent to take action under the POT Act. The petitioner aggrieved by the order dated 03.07.2008 filed revision before the Joint Collector/3rd respondent and the 3rd respondent through order dated 21.07.2012 dismissed the revision. The petitioner availed the remedy of revision before the CCLA, however, the same was returned through proceedings dated 27.04.2013 on the ground that under the POT Act, further revision to 2nd respondent is not available. Hence, the writ petition.

The 5th respondent filed counter-affidavit broadly referring to the circumstances leading up to filing of the writ petition. In view of the legal objection against the orders impugned in the writ petition, I am not referring to the factual objections of either 5th or 6th respondents. The petitioner contends that the orders dated 03.07.2008 or 21.07.2012 are *per se* illegal, arbitrary and without jurisdiction. According to petitioner, in the year 2008, the 4th respondent granted assignment in favour of petitioner.

Assuming that the same is treated as bogus assignment, the 4th respondent considering the petitioner's entitlement issued pattadar passbook/title deed. There is no appeal against either on assignment or pattadar passbook/title deed. In the absence of appeal filed by an aggrieved party under the POT Act or Record of Rights Act, cancelling pattadar passbook/assignment is completely illegal and without jurisdiction. The confirmation of such erroneous order by respondent No.3 is equally unsustainable.

Counsel appearing for respondents contend that the circumstances stated by the petitioner amount to either breach of conditions of assignment or POT Act. Therefore, the respondents are justified in taking action on the claims of petitioner.

The respondents are unable to satisfy this Court on the source of power under which the orders impugned in this writ petition are passed. The gist of the orders is that on the communication forwarded by the 5th respondent, the 4th respondent cancelled assignment and pattadar passbook. The scheme of both enactments is very clear and entertaining the objection of Tahsildar as appeal and passing of orders impugned in the writ petition is illegal and unsustainable. Hence, the orders impugned in the writ petition are set aside. The disposal of writ petition shall not be understood as this Court expressing a view on the claim of petitioner and respondent No.6. The 6th respondent, if has grievance vis-à-vis subject matter of the writ petition, is given liberty to work out the grievance by filing application under the POT Act. If

such application is filed, the entire issue is left open for consideration in accordance with law by respondent No.4.

The writ petition is ordered with the above observations. There shall be no order as to costs.

Consequently, pending miscellaneous petitions, if any, stand closed.

26th July, 2017

Lrkm

S.V.BHATT, J

