

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.27782 of 2017

Dated:18.08.2017

Between:

Naseema Begum, W/o. Md.Ehateshamul Huq, D/o.
Mohammad Khasim, aged about 33 years, Occu:
Housewife, R/o.40-1-170, Hussain Street, Labbipet,
Vijayawada, Krishna District and another.

..Petitioners

AND

The State of Andhra Pradesh, represented by its
Principal Secretary, Revenue Department,
Velagapudi, Amaravathi and others.

.. Respondents



The Court made the following:

*THE HON'BLE SRI JUSTICE P.NAVEEN RAO*WRIT PETITION No.27782 of 2017ORDER:

In this writ petition, petitioners challenge the orders of the Tahsildar, Penamaluru Mandal, (R.4), dated 21.07.2017, passed in exercise of powers under Section 4(1) of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short, 'the Act').

2. It appears that a notice was caused on 06.07.2017 in the name of the 2nd petitioner and others calling upon them to show cause as to why they should not be evicted from the assigned land and as to why the powers under Section 4 could not be exercised and possession shall not be taken. It appears that Naseema Begum, D/o. Mohammad Khasim, in whose favour the assignment was granted filed written complaint contending that the property was never sold to anybody. However, on enquiry, it was found that there is a registered document dated 31.12.1980, which discloses that N.Prabhakar and his wife sold seven cents of assigned land to Mohammad Khasim. As per the records, Mohammad Khasim was found to be in occupation. As the Mohammad Khasim is not living in the Village and his whereabouts were not known, notice dated 06.07.2017 was affixed on the land. As there was no response to the notice caused on 06.07.2017 within 15 days, final orders are

passed on 21.07.2017 in exercise of powers under Section 4(1) of the Act for taking possession of the land holding that the land vests in the Government. The Mandal Revenue Officer was directed to take possession of the land after evicting the petitioners from the subject land.

3. Against the order passed by the Tahsildar, Penamaluru Mandal (R.4) under Section 4(1) of the Act, an appeal shall lie to the Revenue Divisional Officer, Vijayawada (R.3), under Section 4.A of the Act. Without availing the remedy of appeal, the petitioners filed the present writ petition.

4. Learned counsel for the petitioners contends that in fact, the land was never assigned and it is a private patta land, therefore, the 2nd petitioner has validly purchased the land and he, in turn executed a gift deed in favour of the 1st petitioner as early as in the year 2006. Therefore, the 1st petitioner ought to have been given notice before taking appropriate action. Learned counsel further submits that the 2nd petitioner is aged about 65 years and is an uneducated person. He was not aware of the steps to be taken and therefore, he could not immediately respond. However, on 24.07.2017 an explanation was submitted by the 2nd petitioner and the same was not taken into consideration before passing the final orders.

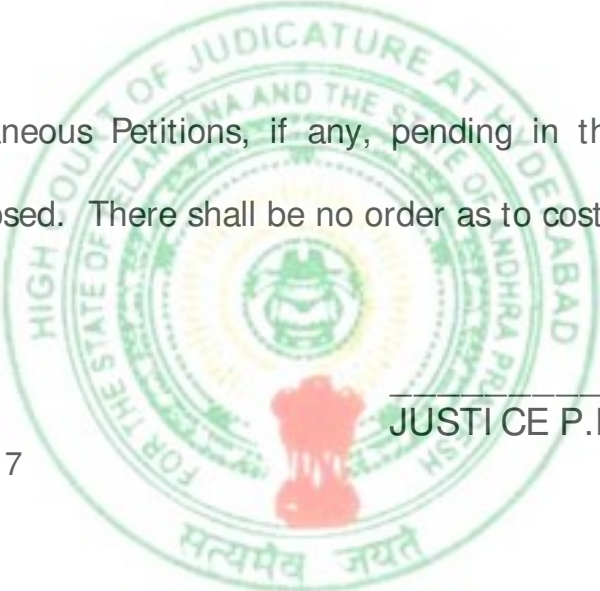
5. Since the remedy of appeal is available under Section 4.A of the Act, the petitioners have to avail the remedy of appeal before

invoking the jurisdiction of this Court. It cannot be said that the remedy provided by the Act is not an efficacious and effective remedy. These submissions can also be urged in the appeal. It is also permissible to the petitioners to file an application for continuation of possession, pending disposal of the appeal that may be filed.

7. Thus, leaving it open to the petitioners to file appeal under Section 4.A of the Act, if they are so advised, the Writ Petition is dismissed.

Miscellaneous Petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

Date:18.08.2017
INL



JUSTICE P.NAVEEN RAO