

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 5500 of 2006

Order:

Heard learned counsel for the petitioner, learned Government Pleader for the respondents 1 to 4 and learned counsel for the fifth respondent.

The petitioner claims that he is a landless poor person and he was assigned an extent of Ac.4.50 cents in Survey No.27/1 of Kanumalopalli Village, Sidhout Mandal, Kadapa District on 15.02.1984 under DKT No.13/93. He was put in possession of the same. He brought the land under cultivation. He was issued a pattadar passbook and was paying the land revenue also. While so, the fifth respondent claimed that he purchased the land from the petitioner and sought allotment of the land. The fourth respondent took up the proceedings. He issued a notice to the petitioner and when the petitioner failed to submit his explanation he passed an order on 30.07.2001 resuming the land to the Government on the ground that the land was sold to the fifth respondent and Sri Datta Sai Temple was constructed on the land. Against the said order, the petitioner preferred an appeal to the third respondent and the third respondent, by his order dated 11.12.2003, confirmed the order of the fourth respondent to the extent of resumption of the land and directed the fourth respondent, the Mandal Revenue Officer, Sidhout Mandal to submit alienation proposals for the land. The petitioner preferred an appeal to the Joint Collector, Kadapa and the Joint Collector, by order dated 07.12.2004, came to the conclusion that the fifth respondent encroached the land and erected the structures in a scattered manner without following the procedure. Accordingly, the direction given to the Mandal

Revenue Officer by the Revenue Divisional Officer, Rajampet was set aside and the Revenue Divisional Officer, Rajampet was directed to receive the alienation proposals from the Collectorate. So far as the violation of conditions of alienation is concerned, the Joint Collector observed as follows.

“As seen from the proceedingsl of R.D.O., Rajampet vide R.Dis B/769/2001 dated 11.12.2003, it is observed that (1) Sri T. Ramesh Babu, S/o Venkata Ramana, assigned of the land in S.No.27/1 extent 4.50 acres of Kanumalopalli village of Sidhout Mandal, who is now working as Conductor in APSRTC, Cuddapah since 24.03.1994 has violated the condition No.2 of DKT by not getting the assigned land into cultivation (2) he has violated the condition No.1 of DKT by alienating the land in question to Sri Vungarala Vijayachakravarthi, S/o Ramachandraiah of Cuddapah by way of sale vide document No.788 dated 09.04.1987 for Rs.12,000/- (3) He has again violated the condition No.1 of DKT by alienating same land to the second respondent herein by way of unregistered agreement bearing No.3144 dated 11.04.2001, for Rs.26,000/- per acre and received Rs.20,000/- cash towards advance for the land.”

Having been aggrieved with the said order, the petitioner preferred a further appeal to the first respondent and the first respondent confirmed the orders of the lower authority to the extent of resumption of the land, by his order dated 19.12.2005.

In the present writ petition, learned counsel for the petitioner submits that the entire proceedings were initiated on the application submitted by the fifth respondent, who claimed to have purchased the land under an agreement of sale from the petitioner, and in order to accommodate the fifth respondent the orders of resumption were passed. He further submits that in case of violation of the conditions of alienation either the land should be resumed to the Government or should be given to the assignee, but it cannot be granted to the fifth respondent.

A perusal of the orders passed by the respondents 1 to 3 are confusing. They mixed up the issue of violation of the conditions of assignment and alienation in favour of the fifth respondent. As rightly pointed out by the learned counsel for the petitioner, if the petitioner has violated the conditions of assignment, the due procedure contemplated under the Act 9 of 1997 should have been followed and appropriate orders should have been passed, but the respondents 1 to 3 were carried away by the existence of Sri Datha Sai Temple on the land and passed orders without deciding the rights of the petitioner. Though the order of the fourth respondent does not speak of two alienations, the order of the second respondent speaks of two alienations as aforesaid. Though, the fourth respondent did not assign any reason with regard to employment of the petitioner in APSRTC, the respondents 1 to 3 based their orders on the ground of employment of the petitioner in APSRTC. Learned counsel for the petitioner submits that the petitioner is only a contract employee in APSRTC and he was not in employment at all at the time of assignment of the land.

In view of the inconsistent orders passed by the respondents 1 to 3, the orders passed by them are set aside and the matter is remanded to the third respondent for consideration of the appeal preferred by the petitioner in accordance with the provisions of the Act 9 of 1997 and pass appropriate orders after hearing the petitioner and the fifth respondent within a period of six (6) months from the date of receipt of a copy of this order. It is needless to observe that the parties are entitled to file documentary evidence in support of their claims.

The Writ Petition is, accordingly, allowed. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions pending in this Writ
Petition, if any, shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 08.06.2017
Nsr

