

HON'BLE SRI JUSTICE S.V. BHATT

Writ Petition No.4856 of 2009

ORDER:

Heard Mrs. Madhavi Priya Manthana for petitioners and the Assistant Government Pleader (Assignment) for respondents.

2. The petitioners 1 to 7, as per the cause title, have withdrawn from the writ petition by filing an affidavit along with petition and hence, four petitioners remain on record.

3. The petitioners pray for *mandamus* declaring action of the respondents in interfering with petitioners' possession of agricultural land of different extents in various survey numbers without recourse to law, as illegal, arbitrary and unconstitutional.

4. On 12.03.2009, this court granted interim direction restraining the respondents from interfering with petitioners' possession, except in accordance with law. The respondents filed WV MP No.1983 of 2009 seeking vacation of the interim order dated 12.03.2009.

5. The Tahsildar/ 3rd respondent filed counter-affidavit along with petition, seeking vacation of interim order, referred to assignment details in favour of several individuals. According to the 3rd respondent, the petitioners are the purchasers from the assignees, the alienation attracts the provisions of Act 9 of 1977 and therefore, the respondents are entitled to resume possession of assigned land from the petitioners. The counter-affidavit on this aspect of the matter reads thus:

“..Originally the above lands were assigned to the assignees shown in the column 4 of the above table and petitioners have purchased the assigned lands which are not valid transactions according to the conditions of patta. As and

when necessity arises these assigned lands can be taken by the Government. As it is ordered by the Government for alienation of the lands in favour of APIIC Ltd., action is being taken for alienation of lands duly issuing notices to the assignees through registered post with acknowledgment due. Hence, the contention of the petitioner is not correct.”

6. From the above, it is clear that the 3rd respondent is aware of the alienation of assigned land in favour of petitioners and steps are being taken for resumption of the assigned lands. The statement is placed on record and accepted.

7. Having regard to facts and circumstances of the case, the 3rd respondent is directed not to dispossess the petitioners, except by following the procedure followed by law and also complete process within three months from the date of receipt of a copy of this order. The petitioners are free to raise all objections/submit explanation as and when a notice is issued.

8. The writ petition is, accordingly, disposed of. No order as to costs. Pending miscellaneous petitions if any in this writ petition shall stand dismissed in consequence.

Date: 31.07.2017
BSS

S.V. BHATT, J

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