

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P. No.17071 OF 2017

ORDER:

This writ petition has been filed under Article 226 of Constitution of India seeking to declare the notice in Ref.No.B/310/2011, dated 04.04.2017 on the file of 3rd respondent in Form-II under the Provisions of the A.P. Assigned Lands (Prohibition of Transfer) Act 9 of 1977 in respect of the land to an extent of Ac.0.96 cents and Ac.5.00 cents in Sy.Nos.163/1A and 163/1B of Kontangi Village, Shankhavaram Mandal, East Godavari District as illegal, untenable, without jurisdiction and contrary to the provisions of A.P. Assigned Lands (Prohibition of Transfer) Act 9 of 1977 and set-aside the same.

2. Heard Sri V.V.N.Narayana Rao, learned counsel for the petitioner and learned Government Pleader for Assignment (A.P) for respondents 1 to 3.

3. Earlier petitioner herein filed an appeal before the Revenue Divisional Officer, Peddapuram against the order of resumption passed by Tahsildar, Sankhavaram. By way of an order vide proceedings dated 21.02.2017, the appellate authority—RDO, Peddapuram had set-aside the orders of resumption passed by Tahsildar, Sankhavaram, while directing the Tahsildar to initiate fresh proceedings under the provisions of Act 9/77 duly following the procedure prescribed and to pass appropriate orders within a period of three months.

4. Obviously in pursuance of the said order passed by the RDO, Peddapuram, the Tahsildar, Sankhavaram issued a show cause notice in form-II vide reference No.B.310/2011 dated nil.04.2017. By way of the impugned notice, the Tahsildar, Sankhavaram directed the petitioner to show

cause as to why the petitioner herein should not be summarily evicted from the said assigned lands and as to why crop or other product raised on land/ lands and any building or other construction erected or anything deposited thereon should not be forfeited.

5. According to the learned counsel for the petitioner, the impugned show cause notice is totally one without jurisdiction, illegal and contrary to the provisions of A.P Assigned Lands (Prohibition of Transfer) Act 9 of 1977 and the rules made thereunder.

6. According to the learned Government Pleader for Assignment there is no illegality in the impugned action of the Tahsildar, Sankhavaram in issuing notice, under challenge, in furtherance of the orders passed by the appellate authority on 21.02.2017 whereunder and whereby the RDO, Peddapuram while setting aside the orders of resumption passed by the Tahsildar directed the Tahsildar to initiate action duly following the procedure.

7. Admittedly, the impugned notice is issued, granting fifteen days time to the petitioner for filing explanation. The orders of the appellate authority remanding the matter to Tahsildar are not under challenge in the present writ petition and only a show cause notice issued by Tahsildar, Sankhavaram pursuant to the remand orders of appellate authority is under challenge. Since the notice under challenge is only a show cause notice, this Court does not find any valid reason to set-aside the same.

8. However, having regard to the nature of controversy and taking into consideration the submissions of learned counsel for petitioner and learned Government Pleader for Assignment, the petitioner herein is given

liberty to file explanation within a period of fifteen (15) days from the date of receipt of a copy of this order, enclosing all the documents with regard to right over the property. If any such explanation is filed within stipulated time, appropriate orders be passed in accordance with law. It is further made clear that pending such exercise, *status quo* with regard to possession over subject property shall be maintained.

9. Accordingly, the Writ Petition is disposed of.

10. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

18th May, 2017
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A.V.SESHA SAI, J

THE HON'BLE SRI JUSTICE A.V.SESHA SAI



Date:18.05.2017

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