

**HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO**

**W.P.No.22012 OF 2003**

**ORDER**

**This writ petition is filed for the following relief:**

“...to pass an order, direction or writ, particularly one in the nature of Writ of Mandamus, declaring the order of the R3, Joint Collector, RR District, in Case No.E2/7896/1998, dated 16.09.2003, as illegal, arbitrary and violative of the petitioner's fundamental rights under Articles 14 & 16 of the Constitution of India and set aside and pass such other and further orders as this Hon'ble Court may deem fit and proper.”

Heard learned counsel appearing for the petitioner and learned Government Pleader for Revenue appearing for the respondents.

The brief facts of the case are that the land in Sy.No.72 of Gangupally village of Pudur Mandal is originally Government land and the land in Sy.Nos.72/2 and 72/4 admeasuring Ac.5.13 guntas and Ac.3.00 guntas was assigned to Narsaiah, Bheemaiah and Ahmedmiya. The original assignees have sold away the said land to K.Anusuya, K.Naryanamma and K.Nagamanamma *vide* registered sale deeds bearing Nos.25/74, 26/74 and 27/74 and their names were mutated in the revenue records. After their demise, the

land in question was transferred to one K.Nagender s/o late Laxman and Laxmi w/o late Venkatesham and their legal heirs sold away the said land to the petitioner-Padmaja under a registered sale deed No.107/94 dated 7.2.94 and she obtained pattadar pass books and title deeds from the Mandal Revenue Officer, Pudur, and she is in possession and enjoyment of the same.

While so, since it was found that possession of the land was in contravention of the provisions of A.P Assigned Lands (Prohibition of Transfer) Act, 1977, a notice was issued to the petitioner, but she did not respond to the same and did not appear before the 1<sup>st</sup> respondent. Hence, the 1<sup>st</sup> respondent passed an order on 10.1.97 for resumption of land to Government. Aggrieved by the same, the petitioner preferred an appeal before the 2<sup>nd</sup> respondent-Revenue Divisional Officer, Vikarabad, Ranga Reddy District. The 2<sup>nd</sup> respondent in his order dated 27.04.98 recorded that the petitioner has voluntarily expressed her desire to get the assigned land even on payment of market value fixed by the Government, but the same was negatived and the order passed by the 1<sup>st</sup> respondent was confirmed directing him to go ahead with the further process for resumption of the land. Challenging the same, the petitioner preferred a revision

before the 3<sup>rd</sup> respondent. The 3<sup>rd</sup> respondent *vide* order dated 16.9.2003 dismissed the revision. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioner submits that immediately after purchase of the land by the petitioner on 07.02.1994, an application was made to the Mandal Revenue Officer, Pudur, for mutation of her name in the revenue records and accordingly, mutation was also effected. Therefore, initiation of the present proceedings by the respondents after registration of the documents and effecting mutation in her name, is bad in law. Learned counsel further submits that the 3<sup>rd</sup> respondent ought to have considered the appeal and the revision preferred by the petitioner by taking the fact of non-communication of the assigned lands to the Registration Department, which is supposed to register the documents presented in respect of the said lands and hence registration of such lands cannot be found fault with.

Learned counsel relied on G.O.Ms.No.30, dated 12.1.94, wherein, in similar circumstances, the market value @ Rs.15,000/- per acre was collected by the Government from Nalini Shanker, but the same benefit was not extended to the petitioner.

There is no dispute that the land was originally assigned to Narsaiah, Bheemaiah and Ahmedmiya and they have sold away the land in question to Smt K.Anusuya, K.Narayanamma and K.Nagamanamma, and after their demise the property was transferred to one K.Nagender s/o late Laxman and Laxmi w/o late Venkatesham and through their legal heirs, the petitioner purchased the land in question under a registered sale deed dated 07.02.1994. All these transactions originally took place from 1974 onwards. As on the date of verification of the land by the official respondents, the land remained un-cultivated. It is true that in respect of the assigned land, a communication should have been sent to the Sub-Registrar asking him not to execute deeds of sale in respect of the assigned lands, but, however, absence of such communication will not clothe the petitioner with any right to claim the land, if it is an assigned land.

A perusal of the orders passed by the respondents clearly show that there was no record to prove that the land was originally assigned in favour of Narsaiah, Bheemaiah and Ahmedmiya. In the absence of such evidence, it cannot be assumed that the land was an assigned land. But several registrations and transactions took place in respect of the subject land.

In those circumstances, the Revenue Divisional Officer, Vikarabad-2<sup>nd</sup> respondent should have verified the record and given a categorical finding with regard to the nature of land, but no such effort was made.

In the circumstances, the Writ Petition is allowed and the impugned orders passed by respondents 2 and 3 are set aside and the matter is remanded to the 2<sup>nd</sup> respondent for consideration of the case afresh, in accordance with law, by directing the 1<sup>st</sup> respondent to produce a copy of the assignment earlier granted in favour of the original assignees and give an opportunity to the petitioner to prove her case. The entire exercise shall be completed within six months from the date of receipt of a copy of this order. Till such time, there shall be *status quo* prevailing with regard to the land in question.

Accordingly, the Writ Petition is allowed to the extent indicated above. No costs.

Miscellaneous petitions, if any, pending, shall stand closed.

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JUSTICE A.RAMALINGESWARA RAO

19<sup>th</sup> June, 2017  
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