

HON'BLE SRI JUSTICE S.V. BHATT

W.P. No.2175 OF 2010

ORDER:

The subject matter of writ petition is an extent of Ac.4-10 cents in Survey No.433/2 of Inagaluru Village, Srikalahasti Mandal.

On 30.07.1985, through DKT proceeding No.326/4/94, the then Tahsildar, Srikalahasti assigned petition land in favour of petitioner. On 20.01.2008, the 1st respondent issued notice in Form-1 of A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 read with Rule 3 of A.P. Assigned Lands (Prohibition of Transfers) Rules, 2007 and called upon the petitioner to give explanation as to why the assignment dated 30.07.1985 shall not be cancelled and assigned land resumed to Government. On 05.03.2008, the petitioner submitted explanation and admittedly the 1st respondent did not proceed with the enquiry initiated in Form-I dated 20.01.2008. It is matter of record that the petitioner filed O.S. No.490 of 2005 in the Court of Principal Junior Civil Judge, Srikalahasti for perpetual injunction against P.Jayaramaiah/4th respondent herein. On 09.04.2009, the suit was dismissed.

Be that as it may, while matters stood thus, the 1st respondent issued notice impugned in the writ petition under Board Standing Order calling for explanation from the petitioner against alleged violation of assignment condition in bringing the land under cultivation within the stipulated period. The case of petitioner is that the 1st respondent cannot and could not perpetually and perennially issue show cause notices for the same or similar reasons

till the 1st respondent is successful in resuming the land. Even assuming the 1st respondent has jurisdiction to issue notice under Act 9 of 1977 and under Board Standing Order, the notice should be for well informed reasons and within the period stipulated by law.

The learned Government Pleader after taking note of the reasons stated in the notice impugned in the writ petition and notice in Form-1 dated 20.01.2008 submits that the notices are not issued with proper and cogent reasons. He, however, contends that there are reasons for recalling assignment dated 30.07.1985 and liberty may be given to respondents to proceed in accordance with law. The petitioner contends that the 1st respondent at this point of time does not have jurisdiction to issue a notice under Board Standing Order. In view of the submission of learned Government Pleader, this Court is not examining this contention or expressing any view on it. Counsel appearing for respondents 3 and 4 contends that respondents 3 and 4 are in possession and enjoyment of the subject matter of writ petition and places reliance on the findings recorded by the trial court in O.S. No.490 of 2005. According to him, the notice impugned in the writ petition, even allowed to be set aside, the respondents should be given liberty to proceed with enquiry pursuant to notice dated 20.01.2008. This Court is of the view that respondents 3 and 4 cannot have the choice in this matter and it is for the 1st respondent to decide the manner and mode in accordance with law. The notice impugned in the writ petition is set aside. The petitioner is given liberty to raise

objections in fact or law, as and when notice of enquiry is issued by respondents. The writ petition is ordered accordingly. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT, J

Date: 22.08.2017

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