

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.11316 of 2017

ORDER:

The petitioners challenge proceedings No.C/224/2017 dated 02-02-2017 issued under the A.P.Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act').

The 4th respondent through the proceedings impugned in the writ petition cancelled the alleged assignment in favour of one Kavali Jangaiah on the ground that the original assignee transferred the land contrary to the conditions of assignment. The order impugned in the writ petition is an appealable order. Normally, this court relegates a party to work out remedies by filing appeal as per the Scheme of the Act. The point urged in the writ petition is that there is violation of principles of natural justice and also deviation from the prescribed procedure under the Act and the Rules.

In support of his contention, the counsel for petitioners relies upon the judgment of this Court in *SUDALAGUNTA SUGARS LIMITED Vs. JOINT COLLECTOR, CHITTOOR*¹, whereunder this Court in paras '26' to '29', held as follows:-

“Unless and until this jurisdictional fact is decided with reference to assignment, order of assignment , conditions on which assignment made, the mere issuance of notice in Form-II to transferee will not serve the purpose of hearing or considering the objections. The forms under the Rules cannot guide literal meaning of Rule 3 of the Rules. On the other hand,

¹ 2017 (1) ALT499

if a restricted meaning as sought to be canvassed by the learned Government Pleader is accepted, then transferee is heard only on the eviction but not on the valuable defences available to him in the enquiry conducted by the District Collector or authorized officer. After considering the totality of scheme of Act, Rules and the content of notices in Form-I and Form-II, this Court is of the view that whenever action under Section 4 of the Act is initiated by the District Collector or authorized officer, the authority is required to issue notices in Form-I and Form-II to the assignee and the transferee from the assignee.

The authorities are required to have practical and realistic approach in passing order under Section 4 of the Act. With the transfer of assigned land the assignee may or may not evince interest in the enquiry conducted by the District Collector or authorized officer. Further being the person interested in the property covered by notice issued in Form-I or Form-II the transferee, if heard, before considering the consequences stipulated under Section 4 of the Act, the same satisfies scope and purpose of special statute enacted for prohibiting transfer of assigned lands and restoring the assigned land in accordance with Section 4.

For the above reasons, the point is answered in favour of petitioner and against the respondents. Consequently, it is held that in an enquiry taken up under Section 4 of the Act, the District Collector or authorized officer shall issue notices in Form-I and Form-II to the transferor and transferee, consider their objections and pass orders as he thinks fit and proper.

Adverting to the impugned notice and proceedings, having regard to the above discussion and the findings recorded on Point No.II, the impugned notice and the order are set aside, matter remitted to respondent No.2, if circumstances warrant to proceed in accordance with law.

The Assistant Government Pleader having regard to the content of the impugned proceedings dated 02-02-2017 would not satisfy the Court that the notices infact have been issued to the petitioners.

In stead of keeping the writ petition pending, by following the view taken in *SUDALAGUNTA's case* (supra), the order impugned in the writ petition is set aside. The 4th respondent is given liberty to send notices by registered post with acknowledgment due to petitioners to the address shown in the writ petition within two weeks from today and proceed in accordance with law.

The writ petition is allowed accordingly. No order as to costs.

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

Dt: 14-06-2017
Pv



S. V. BHATT, J

