

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.25532 OF 2017

Date: 01.08.2017

Between:

Ram Mohan Reddy s/o Baghavanth Reddy,
Aged about 28 years, occu: Private Employee,
R/o Penchikalpadu Village, Ghattu Mandal,
Jogulamba Gadwal District and others.

.....Petitioners

and

State of Telangana, Revenue Department,
Secretariat, Hyderabad, rep.by its Principal
Secretary and others.

.....Respondents



The Court made the following:

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ORDER:

Petitioners claim to be the owners and in possession of agricultural land to an extent of Ac.69.00 gts., in Sy.No.267 of Penchikalpad village. They were issued notice in Form-I under Rule 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, 2007 (Rules, 2007) holding that they illegally transferred the assigned land in contravention of the provisions of sub-section (2) of Section 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (Act, 1977) and as to why the land should not be resumed in exercise of power in Section 4 of the Act, 1977. Petitioners filed detailed explanation opposing the objections on the scope of exercise of power as well as the maintainability of notice itself.

2. By the order impugned, the explanation offered by the petitioners was rejected and holding that petitioners were in unauthorized encroachment of the Government land, ordered for resumption of Government land in exercise of power under Section 4 of the Act, 1977.

3. Learned counsel for petitioners contends that no land was assigned to the petitioners in exercise of power under the Act, 1977 or any other provision and, therefore, question of violation of conditions of the assignment and thereon, resumption of the land assigned does not arise. According to the learned counsel, in the orders impugned, what is alleged is tampering of revenue records describing the land as belonging to them, whereas the land in

Sy.No.267/A is Government land. He, therefore, submits that the provision of the Act, 1977 is not attracted.

4. Section 2 (1) of the Act, 1977, defines “assigned land” and Section 2 (6) defines “transfer”. Section 3 defines ‘prohibits of transfer of assigned lands’ and if any land is found to have been illegally transferred by the assignee power is vested in Section 7 to cancel the assignment and take possession of the land, so assigned. A bare perusal of the order under challenge would also disclose that even according to the Tahsildar, no assignment was made in favour of the petitioners or their ancestors. What is alleged is, there were some alterations in Khasra Pahani 1954-55. Thereafter, further alternations were made in the revenue records showing the subject land as patta land and ‘unauthorizedly encroached the Government land’. Even according to the Tahsildar, it is not a case of assignment made earlier, which is sought to be resumed by the Government.

5. Having regard to the provisions of the Act, 1977 and reading of the proceedings dated 20.07.2017 impugned, learned Assistant Government Pleader do not dispute that provisions of the Act, 1977, are not attracted.

6. Having regard to the above, writ petition is allowed setting aside the order impugned in the writ petition. However, this order does not come in the way of competent authority taking appropriate proceedings as warranted by law with reference to the claim of the State on the subject lands.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

JUSTICE P.NAVEEN RAO

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