

HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.3733 OF 2010

ORDER:

Heard Mr.D.Jagan Mohan Reddy for petitioners, the Government Pleader (Revenue) for respondents 1 to 3, Mr.G.Shashidar for 4th respondent and Mr.M.Murali Lincoln for respondents 5 to 21.

The subject matter of the writ petition is an extent of Acs.4-32 Gts in Sy.No.293 of Atchampet Village and Mandal, Mahabubnagar District. The petitioners claiming to be owners and possessors of subject matter of the writ petition have filed the present writ petition for the following relief:

“....this Hon'ble Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring (i) the action of the 2nd respondent in initiating proceedings in file No.E/608/2007 (ii) the action of the 1st respondent in passing the impugned order dt 28-6-2008 in case No.E14/2007/E1/6279 insofar as finding a recording that the subject lands admeasuring Ac.4-32 guntas situated in Sy.No.293 of Achampet Village & Mandal, Mahabubnagar District, is an assigned land as arbitrary, illegal and violative of Article 14,21 and 300-A of the Constitution of India, contrary to the provisions of A.P Assigned Land (Prohibition of Transfers) act 1977,A.P Land Revenue Act 1317 Fasli, and pass.....”

Through proceedings impugned in the writ petition, the 2nd respondent held - (1) that the subject matter of writ petition is assigned land (2) that the assignee was ineligible for getting assignment (3) that the assigned land has been transferred in contravention of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 and (4) directs the 3rd respondent to initiate action under

Sections 3, 4 and 7 of the Act. The petitioners contend that the 2nd respondent committed illegality by treating the representation given by Dr.C.Vamshi Krishna, MLA, Atchampet as appeal or a case to be taken up by 2nd respondent, after perusing the record recorded *prima facie* findings and after realizing the procedure to be followed under the Act, had issued the following directions:

“Therefore, the Tahsildar, Achampet is hereby directed to proceed under section 3, 4 & 7 of A.P. Assigned Land (Prohibition of Transfers) Act, 1977, immediately and to remove all encroachments and to take over Govt.land extent Ac.4-32 in Sy.No.293 situated within limits of Achampet Village into Govt. custody under cover of Panchanama and report compliance. The land should be safeguarded properly from all encroachments in future and also to enter the same in prohibitory order book (POB) duly keeping it reserve for public purpose in the interest of Government.”

Therefore, these conclusions are assailed by contending that the proceedings cannot be sustained in law and it is further stated by the counsel for the petitioners that even assuming without admitting that the subject matter of writ petition is assigned land, still the petitioners herein or their predecessors-in-interest have several defences in law or fact and passing orders behind the back of petitioners who have subsisting interest as on date is also violative of principles of natural justice.

The Assistant Government Pleader submits that according to respondents, the proceeding impugned in the writ petition is treated as communication forwarded by 2nd respondent to 3rd respondent and Tahsildar will issue notice to petitioners while taking up enquiry. Mr.Jagan Mohan Reddy replying to this

contention submits that even the proceeding impugned in the writ petition is treated as communication, still with the hierarchy provided under the Act, it is difficult to comprehend that the 3rd respondent would follow the requirements of the Act and independently consider the objections that may be raised by a contesting party and pronounce orders.

After perusing the proceedings impugned in the writ petition, without much deliberation, this Court is of the view that the procedure followed by the 2nd respondent to remedy a situation, if any, warranting action under the Act, does not conform to the scheme of the very Act or the principles of natural justice. Therefore, on this short ground, the proceedings impugned in the writ petition are set aside. This Court has not considered the issue on merits. Hence, it is open either to 3rd respondent or persons interested in the subject matter to initiate steps in accordance with law.

The writ petition is ordered. There shall be no order as to costs.

Consequently, pending miscellaneous petitions, stand closed.

S.V.BHATT, J

28th August, 2017

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