

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.26702 of 2017

Date :11.10.2017

Between :

Karre Srinivas S/o Komuraiah
R/o H No. 3-4-98, Kurmawada, Jangaon mandal
Jangaon district and others

Petitioner

And

The State of Telangana
Rep by its Principal Secretary (Revenue)
Secretariat, Hyderabad and others

Respondents

The Court made the following:



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ORAL ORDER:

Petitioners claim that they purchased land admeasuring Ac.3.09 guntas in Survey Nos. 301/2 and 302/2, Jangaon town and mandal, Jangaon district for a valuable consideration from its erstwhile owner Smt Keerthi Laxmi Narasamma under a registered agreement of sale cum GPA with possession vide document No. 4758/2010 dated 30.3.2010. According to petitioners, the said land was purchased by their vendor from Mr Khaja Shareef. While so, son of petitioners' vendor by name Mr Jahangeer Shareef filed an appeal alleging that there was an illegal sale transaction shown by Smt Keerthi Laxmi Narasamma and that his father never sold the land, therefore orders passed under Section 13-B of the A.P. Rights in Land & Pattedar Passbooks Act, 1971 (for short Act, 1971) validating the sale and mutating the name of Smt Keerthi Laxmi Narasamma and issuing pattedar passbooks and title deeds was illegal. It was contended that his father was Ex-Serviceman and land was assigned to his father on 21.4.1979 and as per assignment conditions, within 10 years of assignment, no sale can be made and alleged sale claimed by Smt Keerthi Laxmi Narasamma was in violation of the assignment conditions.

2. The Revenue Divisional Officer/third respondent accepted the plea raised by the appellant and set aside the 13-B certificate and pattedar pass books and title deeds issued by the Mandal Revenue Officer on 5.9.1994. He further directed the Tahsildar to resume the land to the Government for violation of the condition of non-alienation by the allottee and keep under Tahsildar custody in Government land bank. Thereafter, further orders are passed on 28.6.2017 allotting Ac.1.00 guntas in Survey Nos. 301/2 and 302/2 to R & B Department for construction of office cum residential complex for all MPs and

MLAs from the district. Aggrieved by the said order, petitioners filed this writ petition.

3. According to petitioners, having purchased the land from Smt Keerthi Laxmi Narasamma by way of registered document dated 30.3.2010 they are in possession, therefore, the land cannot be resumed from them without following the procedure as required under the A.P. Assignment Land (POT) Act, 1977 (for short the Act, 1977) and as due procedure was not followed, same is illegal and therefore no building can be constructed on said land. Learned counsel further contended that proceedings before the Revenue Divisional Officer emanated under Act, 1971 on alleged regularization of the sale in favour of Smt Keerthi Laxmi Narasamma and consequential issuance of the pattedar passbooks and title deeds and he could not have transgressed and undertaken the exercise under Act, 1977.

4. A bare perusal of the order dated 10.3.2014 of the Revenue Divisional Officer would disclose that the complaint before the Revenue Divisional Officer was on regularization of the property in the name of Smt Keerthi Laxmi Narasamma and issuance of pattedar pass books and title deeds, therefore Revenue Divisional Officer ought to have confined enquiry and decision only with reference to Act, 1971. Merely because he has power under the Act, 1977 or according to him there was violation of the terms and conditions of assignment granted to Ex-serviceman, therefore provisions of Act, 1977 were vitiated, he could not have straight away passed order under Act, 1977, particularly when proceedings before him were initiated under Act, 1971. Learned Government Pleader did not dispute the legal position and the issue raised before the Revenue Divisional Officer. Thus, order to that extent is not sustainable in law and therefore direction issued by the Revenue Divisional Officer to Tahasildar to resume the land in favour of the Government for violation of the conditions of non alienation by the allottee and allotting land for construction of camp office

cum residential complex for all MPs and MLAs is not valid. However, it is made clear that it is open to the competent authority to initiate proceedings under Act, 1977 if according to competent authority conditions of assignment granted to Ex-serviceman were violated and sale transactions have taken place, by following the procedure as required under the Act, 1977.

5. On 10.8.2017 while adjourning the matter, parties were directed to maintain status quo for a period of 10 days. If a decision is taken to initiate proceedings under the Act, 1977, the said order of status quo shall continue till final orders are passed under Act, 1977 and the competent authority shall follow strict time schedule and complete the exercise within a period of two months.

6. It is to be noted that aggrieved by the order of the Revenue Divisional Officer dated 10.3.2014 Mr. Jahangir Sharief son of original assignee late Khader Sharief filed revision before the Joint Collector and the said revision is pending and therefore, the Court has not expressed any opinion with reference to proceedings under Act, 1971 and it is open to the parties before the revisional authority to raise all contentions as available in law.

7. Subject to above, the writ petition is allowed. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

DATE: 11.10.2017
TVK

P NAVEEN RAO, J

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