

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Mr. JUSTICE M. GANGA RAO

Writ Appeal No.1428 OF 2017

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

Heard Sri Sitaram Chaparla, learned counsel for the appellants, and the learned Government Pleader for Revenue (Telangana) and, with their consent, this appeal is disposed of at the stage of admission. This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in W.P. No. 30494 of 2017 dated 12.9.2017.

The appellants herein are the petitioners in W.P. No. 30494 of 2017, wherein they sought a mandamus to declare the action of the respondents, in insisting that the petitioners vacate their respective site properties in Survey No. 213 situated in Gagillapur Village in Gandimysamma Dundigal Mandal, Medchal District, as illegal and arbitrary. A consequential direction is sought to the respondents not to interfere with their possession of the respective house sites.

In the affidavit, filed in support of the writ petition, the appellants-writ petitioners have furnished details of the plot number, survey number, extent in square yards, and the registered document details by which they purchased the subject plots. It is also their specific case that they are the owners of the subject lands, and the respondents intend to throw them out high-handedly, without following the procedure established by law. The Writ Petition was, however, dismissed by the learned Single Judge holding that no material had been brought on record to show their occupation; and, on the mere allegation of alleged interference, no direction as sought for could be granted. Leaving it open to the appellants-writ petitioners to work out

their remedies, as were available to them in law, the writ petition was dismissed. Aggrieved thereby, the present appeal.

Sri Sitaram Chaparla, learned counsel for the appellants, would submit, not without justification, that the appellants-writ petitioners cannot be dispossessed of their plots without following the procedure established by law; the appellants-writ petitioners have a constitutional right, under Article 300-A of the Constitution of India, not to be deprived of their property, except in accordance with law; and the respondents, without even issuing a notice and without giving the appellants an opportunity of being heard, are taking law into their own hands, and are seeking to dispossess the appellants herein.

As the appellants-writ petitioners had relied on registered sale deeds, several of which relate to the years 2006 and 2007 more than ten years ago, we asked the learned Government Pleader to ascertain the factual position on ground. Today, the learned Government Pleader for Revenue submits that the land, assigned for agricultural purposes, was illegally converted into plots; and assigned lands were purchased by the appellants-writ petitioners contrary to the provisions of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (Act 9 of 1977). He would rely on Section 3 of Act 9 of 1977 to contend that sale of the subject plots is a nullity.

It is necessary to note that Act 9 of 1977 requires both the original assignee, and the person who purchased the land from the assignee, to be put on notice and to be given an opportunity of being heard before any action is taken to evict them from the lands in their possession. Admittedly, neither were the appellants put on notice nor were they given an opportunity of being heard in terms of Section 4 of Act No.9 of 1977.

We consider it appropriate, therefore, to set aside the order under appeal, and direct the respondents not to take coercive steps to evict the appellants-writ petitioners' from the subject land, without putting them on notice, without giving them an opportunity of being heard and without adhering to the provisions of Act 9 of 1977.

The Writ Appeal is disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(M. GANGA RAO, J)

22nd September, 2017

pnb



THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Mr. JUSTICE M. GANGA RAO



Writ Appeal No.1428 OF 2017

Date: 22.9.2017

pnb

