

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

C.R.P.No.175 OF 2017

ORDER:

This civil revision petition is filed under Article 227 of the Constitution of India challenging the proceedings bearing No.B/8152/2016, dated 17.11.2016 passed by the 4th respondent to resume the lands in Survey No.38/AA to an extent of Ac.17.11 gts and in Survey No.39 to an extent of Ac.29.01 gts, situated at Hothi-K Village, Zaheerabad Mandal in favour of Government as 'Ceiling Surplus' Lands.

The main contention before this Court is that Section 10 of A.P. Land Reforms (Ceiling of Agricultural Holdings) Act, 1973 (for short 'the Act') was not followed.

The petitioners are the purchasers of various plots of land in Survey Nos.38/AA and 39 of Hothi-K Village of Zaheerabad Mandal during pendency of proceedings under the Act and in case the order is implemented, they will be put to serious loss, which may not be compensated, since, the procedure under Section 10 of the Act was not followed.

None appeared for Government despite service of notice on the Government Pleader for Arbitration.

Undoubtedly, one late Smt Dasari Yashodamma was declared as surplus holder of land to an extent of 1.0168 standard holdings and was carried the matter up to High Court and finally the order passed by the Revenue Divisional

Officer, Land Reforms was confirmed and declared as surplus holder of 1.0168 of land standard holdings as per the procedure under the Act and the revenue authorities have to take steps and issue notice under Section 10 of the Act calling upon the declarant to surrender the excess land or surplus holdings. But without issuing such notice, the Joint Collector is directed to resume the land.

As per Section 10 of the Act, if the extent of the holding of a person is in excess of the ceiling area, the person shall be liable to surrender the land held in excess. The Tribunal shall serve on every person, who is liable to surrender the land held in excess of the ceiling area under sub-section (1), a notice specifying therein the extent of land which such person has to surrender and requiring him to file a statement within such period not being less than fifteen days, as it may fix, indicating therein full particulars of the lands which such person proposes to surrender. On receipt of such notice, if the declarant failed to file her surrender statement, the order can be passed directing the authorities to take possession of the land i.e excess holdings.

But here admittedly, respondents 3 and 4 did not follow the procedure prescribed under Section 10(2) of the Act i.e. serving Form No.VII notice upon the declarant i.e. surplus holder to file surrender statement prescribed in Form No.IX. Thus, the order passed by the 4th respondent-Tahsildar, dated 17.11.2016 is totally in contravention of Section 10(2) of the

Act. Therefore, on this ground alone the order under challenge is liable to be set aside.

In the result, the civil revision petition is allowed setting aside the proceedings bearing No.B/8152/2016, dated 17.11.2016 passed by the 4th respondent-Tahsildar, Zaheerabad Mandal directing him to follow the procedure under Section 10 of the Act.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

15.02.2017
kvrn

M.SATYANARAYANA MURTHY,J

