

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 15548 of 2005

ORDER:

As there was no representation on behalf of the petitioner on 10.08.2017, the matter was directed to be listed today under the caption 'for dismissal'. Even today, there is no representation on behalf of the petitioner. Hence, this order is passed by perusing the records and the counter affidavit.

The present writ petition came to be filed challenging the action of the first respondent in declining to initiate action under Section 4 of the Prohibition of Transfer of Assigned Lands Act, 1977 (for short, 'the Act').

The petitioner was assigned agricultural land admeasuring Ac.1.22 guntas covered in Survey No.13/E situated at Thimmajivadi, Sadhashivanagar Mandal, Nizamabad District in the year 1979. The petitioner claims to be in possession and enjoyment of the said land assigned to him. The Xerox copies of final patta certificate issued by the assigning authority is said to have been enclosed. It is stated that an Ex.Serviceman Sri Hanumantha Rao, was also assigned agricultural land admeasuring Acs.5.00 guntas situated in Survey Nos.13/ 1 and 2 in the same village abutting the land of the petitioner. After his demise, his wife Smt.Sarojini inherited his properties but her whereabouts were not known. It is stated that one Padmakar

Ramarao and his brother P.Kishan Rao, who own about Acs.27.00 of agricultural land are trying to grab the land in dispute claiming to be its owners. Accordingly, they are said to have lodged a false report before the police against the petitioner. The S.I. of police in turn, with the help of Mandal Surveyor and Deputy Inspector (S&LR) fixed the boundaries and mapped the area pertaining to one Sakali Rajaiah, the adjoining owner, pursuant to the directions issued by respondent No.3. It is stated that these two brothers have purchased the land in contravention to the provisions of Prohibition of Transfer of Assigned Lands Act, 1977 and as such their pattadar pass books were requested to be cancelled. The inaction of the respondents under Section 4 of the Act of 1977 and affording protection to the petitioner and his property, lead to filing of the writ petition.

A counter affidavit came to be filed denying the averments made in the writ affidavit. It is stated that the land assigned to Ex-serviceman could be alienated after 10 years from the date of assignment, as per G.O.No.1117, dated 11.11.1993. It is further submitted that respondent No.4, filed a suit before the Court of Judicial First Class Magistrate, Kamareddy, alleging that on 18.07.2003 at 11.00 a.m., Sri Chakali Rajaiah and others criminally trespassed into the land of the respondent bearing Survey Nos.13/ 1 and 13/ 2 causing damage to maize crop worth Rs.3,000/-, which lead to registration of a case in Crime No.77 of 2003 for the offences punishable under Sections 147, 148, 188, 448, 447 and

506 of IPC. On the request of the Sub-Inspector of Police, Sadashivanagar, the then MRO fixed the boundaries.

The averments would show that the two unofficial respondents purchased land given to ex-servicemen and hence there is nothing wrong in petitioner being in possession of the property.

A perusal of the implead application shows that they have purchased land from ex-serviceman and pursuant thereto they were granted pattadar pass book and title deeds.

As seen from the material, the request of the petitioner is that his representation under Section 4 of the Act, 1977 for canceling the assignment was not considered. But a perusal of the counter filed by the MRO and also by the implead petition along with the documents would show that the land was assigned to an Ex-service man. By virtue of the GO referred to above, the said land can be alienated after ten years from the date of assignment. It is also averred in the counter affidavit that the petitioner occupied the lands in dispute in addition to the lands assigned to him and created nuisance instead of accepting the exact location as per the Sub-division records shown by the Mandal Surveyor Inspector. Further, the location sketch furnished by the Mandal Surveyor revealed that Survey No.13/ 1 KK Government land admeasuring Ac.1.22 guntas has been assigned to the petitioner. But the same was refused to accept by the petitioner.

In view of the above circumstances, I see no merits in the writ petition and the same is accordingly dismissed. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions pending if any in this Writ Petition, shall stand closed.

C. PRAVEEN KUMAR, J

17.08.2017
vnb

