

HON'BLE SRI JUSTICE S.V. BHATT
W.P. Nos.15431 AND 15727 OF 2014

COMMON ORDER:

Heard Mr.G.Madusudhan Reddy for petitioner and the Assistant Government Pleader.

The petitioner in these two writ petitions challenges notice in Form No. II in Proceeding A/154/2014 dated 12.05.2014 and the order of resumption No.A/154/2014 dated 06.06.2014 as illegal, violative of principles of natural justice and unconstitutional.

The 4th respondent in purported authority and jurisdiction under the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act') issued the notice and passed the order under challenge. The petitioner filed W.P. No.15431 of 2014 questioning notice dated 12.05.2014 among other grounds that the notice is bereft of reasons and details and according to petitioner, the assumption of jurisdiction under the Act is completely illegal, arbitrary and unconstitutional. The factual basis for the legal contention is that even assuming the assignment of agricultural land in Survey No.5/19 of Peddanapally Village, Kasipet Mandal was made in favour of one Togari Ramulu, still the assignment was under Lavoni Rules and secondly without the condition of non-alienability. Unless and until, the details relating to the subject matter of notice are furnished to petitioner, the petitioner is handicapped and also prejudiced to file effective representation before the

Tahsildar/respondent No.4. This Court while ordering notice on 06.06.2014 directed as follows:

“Petitioner shall submit the explanation on the basis of the available information on or before 10.06.2014. The Tahsildar, however, shall not pass any orders adverse to the petitioner until he furnishes a certified copy of patta of June,1955 referred to in the notice and give the petitioner one week time thereafter to submit his additional explanation, if any, and thereafter consider his case.

Learned Government Pleader for Revenue takes notice for respondents and he shall get instructions and file counter.

Post after three weeks in motion list.”

The 4th respondent passed the order impugned in writ petition No.15727 of 2014 on 06.06.2014. After going through the notice dated 12.05.2014 and the order dated 06.06.2014, this Court has reason to believe that the 4th respondent in utmost haste, in deviation of the procedure prescribed under the Act and in violation of principles of natural justice, issued the notice impugned in writ petition No.15431 of 2014 and also passed the order dated 06.06.2014. The case of respondents is that the land in Survey No.5/19 is assigned land and justified in initiating action for resumption under the Act. The challenge of petitioner is not on the applicability or otherwise of the Act, but on the mode and manner in which the authority conferred on 4th respondent is exercised in this behalf for to challenge the notice or impugned order on any other ground, the petitioner does not know the details. The short ground of challenge is that the 4th respondent has not followed the

procedure stipulated under Rule 3 of the A.P. Assigned Lands (Prohibition of Transfers) Rules, did not give fair and reasonable opportunity to petitioner, much less the order is passed even before the time granted by this Court for submitting explanation is over. Normally, this Court directs a party who suffers an order under the Act to avail the remedy of appeal. In the case on hand, the writ petitions are already admitted and interim orders are also granted. Hence, the writ petitions are heard and on the grounds referred to above, the notice dated 12.05.2014 as well as order dated 06.06.2014 are set aside.

The writ petitions are ordered accordingly. The 4th respondent if so advised and circumstances warrant, can initiate action in accordance with the procedure under the Act. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT, J

Date: 06.07.2017

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