

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.13973 OF 2017

ORDER:

The case of the petitioner is that he was issued notice dated 27.02.2017 stating that the land to an extent of Ac.1-00 guntas in Sy.No.817/20, and Ac.2-00 guntas in Sy.No.817/22 situated at Kadthal Village, Soan Mandal, Nirmal District is an assigned land without any particulars with regard to the classification or assignment. In pursuant to the said notice, petitioner submitted reply dated 14.03.2017 asking the 4th respondent to furnish all necessary particulars about the classification of the subject land. But the 4th respondent without furnishing necessary particulars, passed the impugned order vide proceedings No.B/37/2017, dated 20.03.2017. Aggrieved by the same, the present writ petition is filed.

Learned counsel for the petitioner submits that without giving opportunity of hearing to the petitioner, the land was resumed and even the notice issued to the petitioner is vague. He further submits that the 4th respondent without furnishing the details as to what is the nature of violation committed by the petitioner passed the eviction orders, which is illegal. In support of his contentions he relied on judgment reported in ***Dasari Narayana Rao and another v. Deputy Collector and Mandal Revenue Officer, Serilingampalli, R.R.District and others***¹ which reads as follows:

“11. In the light of the petitioner’s categorical assertions above, it was incumbent on the respondents to record a conclusion that the land in question was an assigned land within the meaning of the expression as defined in the 1977 Act. Such a conclusion on a jurisdictional fact is a condition

¹ 2010 (6) ALD 536

precedent for exercise of jurisdiction under the 1977 Act. As the respondents are Tribunals of a limited jurisdiction, their jurisdiction is defined by the existence of the jurisdictional fact *viz.*, alienation of assigned land which is declared void under the provisions of the 1977 Act.

12. As we have noticed, the show cause notice dated 16.02.2002 is wholly laconic and hopelessly devoid of any factual assertions which would enable a rational response by the petitioners. The show-cause notice does not state who the original assignee is; does not specify the date of the deed of assignment; does not assert that the deed of assignment incorporated a clause prohibiting alienation, with or without a condition and that therefore the petitioners; possession of the land under a registered sale deed executed by such original assignee is illegal as the sale itself is void under the provisions of the 1977 Act.

13. The 1st respondent was required, as the primary authority to have first dealt with, adjudicated and then recorded a finding on the existence of the jurisdictional fact (of the land in question being 'assigned land'). Such conclusion was required to be arrived at by the 1st respondent on the basis of credible and preponderating oral or documentary evidence. In any event since the assignment was not subsequent to the coming into force of the 1977 Act but presumably prior thereto, the 1st respondent was required to first conclude that the land was 'assigned land' as defined in the 1977 Act before proceeding to adjudicate whether there was a transgression of the provisions of Section 3 of the 1977 Act.

14. In this writ petition, this Court is exclusively and narrowly required to determine whether the order of the 1st respondent is in conformity with the minimal forensic discipline of lawfully recording a correct conclusion on a jurisdictional fact. If the answer to this issue be in the negative, then the whole edifice of the 1st respondent's order suffers a fatal infirmity and the orders of the respondents 2 to 4, appellate and revisional in character, would perish with it, as the very foundation of their appellate and revisional jurisdiction would perish with the incurable infirmity of the primary order."

In view of the above facts and circumstances, unless particulars are furnished and same is specified in the notice, vague proceedings cannot be initiated under the provisions of A.P. Assigned Lands (Prohibition of Transfers) Act, 1977. As such, the impugned order is set aside. However, this order will not preclude the authorities from issuing notice with all particulars as to what is the nature of assignment, when the assignment was granted and in whose favour the assignment was granted.

Accordingly, the writ petition is allowed to the extent indicated above. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

28.04.2017
dv



A.RAJASHEKER REDDY, J