

THE HON' BLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No. 46323 of 2016

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Revenue. With the consent of both the parties, the writ petition is disposed of at the admission stage.

2. The present Writ Petition came to be filed seeking issuance of writ of Mandamus declaring the unnumbered Form I notice dated 21.12.2016 of the third respondent seeking cancellation and resumption of petitioner's assignment patta issued in the year 1987 in respect of the land admeasuring Acs.4.56 cents in Survey No.742-1 situated at Ballipalli Village, Kanigiri Mandal, Prakasham District, Andhra Pradesh, as illegal and arbitrary.

3. Though various grounds are raised, learned counsel for the petitioner submits that the impugned notice dated 21.12.2016 is liable to be set aside as it is bereft of the information required for giving necessary reply. The said fact is not seriously disputed by the learned Government Pleader for Revenue.

4. In *Dasari Narayana Rao and another Vs. Deputy Collector and Mandal Revenue Officer, Serilingampalli, R.R.District and others*¹, a learned Senior Judge, while dealing with the contents of the show cause notice issued under A.P.Assigned Lands (Prohibition of Transfers) Act, 1977 (for short, 'the Act'), observed as under:

“51. In the light of the analysis above, in the considered view of this Court, the show-cause notice dated 16.02.2002 and

¹ 2010 (6) ALD 536

the primary order of the first respondent dated 16.05.2002, are patently illegal and incompetent. The show-cause notice is illegal since it is not a show-cause notice, except in its name. It conveys no information to its recipient on which cause is to be shown. It affords no opportunity whatsoever to show cause. The show-cause notice dated 16.02.2002 issued by respondent No.1 is therefore quashed. *De hors* the infirmity of proceeding on such an incompetent show cause notice, the primary order of the 1st respondent dated 16.05.2002 is also invalid for the reason that it attempts an ethereal leap to a vacuous conclusion that the possession of the petitioners (of the land in question) is in transgression of the prohibitions contained in the 1977 Act. This conclusion is based on no evidence whatsoever. No deed of assignment was examined. There is no rational and legitimate finding or conclusion recorded that the land in the possession of the petitioners is an 'assigned land', as the expression is defined in Section 2(1) of the 1977 Act. The order of the 1st respondent dated 16.05.2002 declaring the possession of the petitioners of the land in question as in violation of the provisions of Section 3 of the 1977 Act, is therefore invalid and inoperative.

52. ...

53. ...

54. Since the show-cause notice dated 16.02.2002 of the 1st respondent and the consequent and subsequent orders of the respondent Nos.1 to 4 are declared invalid and inoperative, this Court considered it appropriate to preserve liberty in the 1st respondent to issue show-cause notices afresh, should it so desire, to the petitioners. The show-cause notices must afford a fair and reasonable opportunity duly sensitizing the petitioners as to the facts and allegations they are required to meet, duly sensitive to the fact that the 1st respondent is performing a quasi-judicial determinative jurisdiction in respect of valuable rights of property of the petitioners and in due recognition of the fact that the 1st respondent is a Tribunal of a limited jurisdiction, and is therefore required to come to a rational conclusion on the basis of probative evidence – first as to the existence of the jurisdictional fact which clothes the 1st respondent with the jurisdiction to exercise powers under the provisions of the 1977 Act. The 1st respondent should therefore

both in the show-cause notice and in the eventual order he passes, record a clear and cogent conclusion based on probative evidence, (A) that the land is an 'assigned land' and (B) that the possession of the petitioners in the teeth of the prohibition contained in the 1977 Act.

5. Para No.2 of the impugned notice reads as under:

"...

And whereas, it has come to notice that you have transferred the said assigned land in contravention of the provisions of Sub-Section (2) of Section 3 of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 and under Section 4 of the Act, this land is liable to be resumed to Government for violation of provisions contained in the Section 3 of the Act.

..."

6. From the above, it is clear that that impugned notice does not contain any information as to when, how and to whom the assigned land has been transferred.

7. In view of the above and since the impugned notice is not in compliance with the dicta laid down by this Court in *Dasari Narayana Rao and another Vs. Deputy Collector and Mandal Revenue Officer, Serilingampalli, R.R. District and others*, the impugned notice is set aside. However, this order shall not preclude the authorities from issuing fresh notices fulfilling all the requirements of law.

8. Accordingly, the present writ petition is disposed of. There shall be no order as to costs.

9. Miscellaneous petitions, pending if any, shall stand closed in the light of this final order.

JUSTICE C. PRAVEEN KUMAR

04.01.2017
vnb