

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.25918 OF 2003

ORDER:

This writ petition was filed challenging the orders passed by the respondents 1 to 3 by holding the sale made by the predecessor-in-interest of the petitioners in favour of the fourth respondent as valid by negating the claim of the petitioners for violation of the provisions of Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (the Act, for brevity). The petitioners claimed that their father Derangula Ramaiah was assigned an extent of Acs.8.20 guntas of dry land in survey No.63/91 of Nagaram Village, Paloncha Mandal, Khammam District, after 1960, and the fourth respondent is claiming that he purchased the said lands under registered sale deed, dated 12.02.1968.

It is the case of the petitioners that no such sale deed exists and it was brought into the existence in order to defeat the rights of the petitioners. In the earlier round of litigation, on the application made by the petitioners, the third respondent/Mandal Revenue Officer vide orders dated 30.04.1997 directed the Mandal Revenue Inspector to handover the possession of the land to the petitioners. This Court, while setting aside the said proceedings, directed the third respondent to go into the aspect with regard to actual date of assignment in order to consider whether there is any condition of prohibition of alienation in the assignment. Thereafter, the case was enquired by the Mandal Revenue Officer after remand and he came to the conclusion that the assignment took place before coming into force of G.O.Ms.No.1406, dated 25.07.1958, which for the first time imposed the condition of prohibition of transfer of assigned lands. Accordingly, the third respondent, by order, dated 24.07.2000, passed orders in favour of the fourth respondent. When an appeal was preferred before the second respondent, he confirmed the order of the third respondent, by order, dated 21.01.2002. The revision was

preferred before the Joint Collector and the same was also dismissed on 21.02.2003.

Learned counsel for the petitioners submits that the authorities were in confusion as the original assignment register was not traced and as such, they could not come to a conclusion with regard to the year of assignment and the existence of condition of prohibition of alienation. Hence, it has to be assumed that the transfer of the land is prohibited. Learned counsel for the fourth respondent submits that the fourth respondent purchased the land under registered sale deed executed by the original assignee on 12.02.1968 for valid consideration and the present proceedings initiated by the petitioners are *mala fide* and in the absence of proving the case by the petitioners, no indulgence can be shown to the petitioners.

The petitioners also did not file any document as to the assignment nor conclusively established their case with regard to prohibition of alienation. The pahanis show that the name of the father of the petitioners was in existence during the year 1955-56 and the prohibition of alienation came into existence for the first time only in G.O.Ms.No.1406, dated 25.07.1958. In the deposition of the first petitioner before the Mandal Revenue Officer, he admitted that the assignment took place during the Nizam Government. In the circumstances, in the absence of proof of condition of prohibition of alienation of assigned lands and in view of the concurrent findings recorded by the respondents 1 to 3, this Court sees no ground to interfere with the impugned order.

The writ petition is accordingly dismissed. Miscellaneous petitions, if any pending, in this writ petition, shall stand closed.

A.RAMALINGESWARA RAO, J

09.06.2017
pln