

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.7389 of 2018

ORDER:

Since this Court noticed that the fifth respondent is not connected with the dispute, the notice to the fifth respondent is dispensed with.

It is the case of the petitioner that the land of an extent of Acs.5.00 in Survey No.159/1 was originally allotted in favour of one Sri Yellappa and the said land was partitioned during his lifetime. The petitioner states that he is the son of late Yellappa and grandson of late Hanumanthu. An extent of Ac.1.10 guntas situated at Zaheerabad Village and Mandal, Medak District, fell to the share of the petitioner and pattadar pass books and title deeds were issued in his favour. While so, a notice was issued on 14.11.2017 indicating in the remarks column "construction of houses" and the petitioner submitted his explanation stating that he has been cultivating for long time and he never transferred the land to any other person. He also assured that he will never transfer the land to any third person. In spite of the same, the fourth respondent passed an order on 02.01.2018 ordering resumption of the land on the ground that the land was not put to any agricultural use and it was surrounded by built up area on the three sides and attempts are made to convert the land to non-agricultural use. Against the said order dated 02.01.2018, the petitioner preferred an appeal before third respondent along with a stay petition. The third

respondent called for a report from the fourth respondent and passed an order on 28.02.2018 dismissing the appeal, wherein he observed that the name of late Hanumanthu was entered during 1982-83, but his name did not appear from 1954-55 onwards. However, he stated that the said land might have been assigned after coming into force of G.O.Ms.No.1406, dated 25.07.1958. With regard to the allegation that the land is being converted as non-agricultural land, the version of the appellant before him that third parties are making attempt to trespass into the subject land is found unconvincing and the photographs filed by the fourth respondent show that he raised tin shed, basement and also laid a plan on the ground for converting the land into plots in violation of the assignment rules.

The orders passed by respondent Nos.3 and 4 reveal that there is no scope for doing any agricultural activity in the land claimed by the petitioner and he may be attempting to convert the land for non-agricultural use. There cannot be any dispute with regard to the title of the petitioner. But, he cannot be divested of such title on the ground of conversion of agricultural land to non-agricultural use. No notice was issued to him specifying the said reason and also no such reason was mentioned in the notice earlier issued by the fourth respondent. Even as per the records of the fourth respondent, the land was in possession of the petitioner's grandfather since 1982-83 and without assigning the proper reason, the land cannot be

resumed. But, these are *prima facie* observations of this Court, as this Court noticed that there is a provision for further appeal before the Joint Collector under Section 4A(2) of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act as applicable to Telangana area.

In view of the above, liberty is given to the petitioner to approach the Joint Collector within a period of thirty days, and if the petitioner files the appeal within the specified time, there shall be *status quo* prevailing as on today till the disposal of the appeal by the Joint Collector. The Joint Collector shall dispose of the appeal uninfluenced by the observations made in the present order, as they are tentative in nature.

The Writ Petition is, accordingly, disposed of. The miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. There shall be no order as to costs.

07.03.2018
vs

(A.RAMALINGESWARA RAO, J)