

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

WRIT PETITION No.4472 OF 2016

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner to declare the order passed by the 4th respondent canceling assigned lands vide Rc.No.No.157/2015/A, dt.--/01/2016 an extent of Ac.0.34 cents, situated in Sy.No.33/4B out of total an extent of Ac.0.97 cents in Sy.No.33/4 of A K Agraharam Village, Nathavaram Mandal, Visakhapatnam District, as illegal and unconstitutional.

The main contention of the petitioner is that the 4th respondent cancelled the assignment vide Rc.No.157/2015/A, dt.--/01/2016 an extent of Ac.0.34 cents, situated in Sy.No.33/4B out of total extent of Ac.0.97 cents in Sy.No.33/4 of A K Agraharam Village, Nathavaram Mandal, Visakhapatnam District, on the ground that the D-form patta was issued in favour of the petitioner with certain conditions and one of such conditions is to bring the property under cultivation within 3 years from the date of assignment, but he violated the terms and conditions of D-Form patta, thereby ordered notice dated 08.12.2015, but the date on the notice was mentioned as 24.11.2015, wherein he was granted 15 days time to file explanation, but order under challenge was passed even before submitting his explanation. Therefore, he sought a declaration that the order under challenge is illegal and arbitrary in view of passing an order without receiving any explanation, granting sufficient time to file explanation.

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Admittedly, the order passed by the 4th respondent exercising power under Section 4(1) of Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act 1977 (for short 'the Act'), is amenable to appeal under Section 4-A of the Act, which permits to prefer an appeal by any person aggrieved by an order passed by the Mandal Revenue Officer under sub-Section (1) of Section 4 of may, within 90 days from the date of receipt by him of such order appeal to the Revenue Divisional Officer.

Therefore, appeal lies against the order passed by the Tahasildar as Mandal Revenue Officer, is to the Revenue Divisional Officer under sub-Section (1) of Section 4-A of the Act. If any person aggrieved by an order passed by the Revenue Divisional Officer appeal lies to the District Collector and against order passed by the appellate authority, a revision lies under Section 4-B of the Act is to the District Collector.

When a statutory remedy is available by way of appeal, writ petition is not maintainable, however, it is brought to the notice of this Court that the petitioner filed an appeal before the Revenue Divisional Officer, Narsipatnam, and it is pending for disposal, but no details are furnished.

In any view of the matter, it is appropriate to issue a direction to the 3rd respondent to dispose of an appeal filed by the petitioner, pending for adjudication under Section 4-A of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act 1977, within 3 months from the date of receipt of a copy of this order.

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With the above direction, the writ petition is dismissed. No costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 25.04.2018

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