

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.6284 OF 2014

Dated:19.02.2018

Between:

Nammi Appala Raju, S/o. Late Ramu,
Aged about 42 years, R/o.39-33-75/1,
Phase-I, MIG 234, Madhavadhara
VUDA Colony, Visakhapatnam

.. Petitioner

And

The Government of Andhra Pradesh,
Revenue Department, Secretariat
Building, Secretariat, Hyderabad,
Rep., by its Principal Secretary and others

.. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

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ORDER:

Heard learned counsel for the petitioner and learned Assistant Government Pleader for Revenue. With consent of learned counsel for the parties, Writ Petition is being disposed of by this order.

2. Petitioner claims to be subsequent purchaser of land to an extent of Acs.3.27 cents in Survey No.286/2B of Peddapally Village, H/o. Yerravaram, Yelamanchili Revenue Mandal, Visakhapatnam. He was served with notice in Form-II, dated 04.02.2014, alleging that sale deed is void *ab initio* and he does not have any right or title under the said sale deed as the subject land is an assigned land and governed by the provisions of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short, 'the Act').

3. Petitioner challenged show cause notice primarily contending that same is in violation of earlier directions of this Court in W.P.No.16557 of 2012. On 07.05.2012, the petitioner was served with notice. The said notice was challenged in the above Writ Petition. Holding that the impugned notice did not satisfy the legal requirements as laid down by the Court in ***Dasari Narayana Rao v. Deputy Collector and Mandal Revenue Officer, Serilingampally, Ranga Reddy District***¹, this Court allowed the Writ Petition granting liberty to the competent authority to issue a fresh notice, if he is able to find out the date of assignment, the

¹ 2010 (6) ALD 536

name of the original assignee and a clause therein prohibiting alienation and incorporation and incorporating all these details.

4. Learned counsel for the petitioner submits that the notice impugned in this Writ Petition states only about the alleged assignment made to a person, by name, Yerramshetty Guruvulu, but does not contain other details as directed by this Court. On a reading of the said show cause notice, learned counsel would further submit, as admitted by respondents, the relevant record is not available. According to learned counsel, in the absence of entries in the relevant records and contrary to the directions of the Court, merely by referring to an entry in diglot, the present show cause notice could not have been issued and the same is *per se* illegal and liable to be set aside.

5. Learned Assistant Government Pleader for Revenue sought to contend that the subject land was classified as 'Cheruvu Poramboke' and later sub-divided and assigned new survey numbers. A portion of the land remained as Poramboke and remaining extent of land was assigned the diglot entry and these are authenticated entries and they disclose the status of the land, assignment granted thereof and conclusively establish that it was not a patta land and assigned land was purchased and therefore such assignment is in violation of the provisions of the Act.

6. What is stated by learned Assistant Government Pleader and what is recorded in the show cause notice may be true, but in W.P.No.16557 of 2012, when the earlier show cause notice was challenged, this Court, while setting aside the said show cause notice, granted liberty to the competent authority to cause fresh

notice, subject to fulfillment of three conditions mentioned in the order, as noted above. In the present show cause notice, only one condition is met, and the other conditions i.e., the date of assignment and whether the assignment contained prohibition or alienation are not incorporated. Unless those parameters are met, no fresh show cause notice can be issued.

7. In view of specific directions issued by the Court in the earlier round of litigation inter parties, it is not open to the respondents to issue a fresh show cause notice without complying with the conditions, referred to above. In view of the same, the show cause notice is not sustainable and is liable to be set aside.

8. The Writ Petition is accordingly allowed and the show cause notice, dated 04.02.2014 is set aside. There shall be no order to costs.

Miscellaneous Applications, if any, filed in this Writ Petition shall stand closed.

Date:19.02.2018

KH

P. NAVEEN RAO, J