

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.15608 OF 2018

Dated:27.04.2018

Between:

Akarapu Srinivas,
S/o. Akarapu Shankar Rao,
Aged 48 years,
Occ: Labourer,
H.No.19-4-1/A/2,
Markandeya Colony,
Godavarikhani, Ramgundam,
Karimnagar, Telangana and another.

... Petitioners

And

The State of Telangana,
Represented by its Principal Secretary,
Revenue Department,
Secretariat, Hyderabad and others.

... Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P.NAVEEN RAO**WRIT PETITION No.15608 OF 2018****ORDER:**

Heard learned counsel for petitioner and learned Government Pleader for Revenue and with their consent the writ petition is taken up for disposal at admission stage.

2. Petitioners challenge the notice issued in Form- II, under Rule 3 of Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, 2007. According to the petitioners, they are purchasers of land assigned prior to 1954 and therefore, for the lands assigned prior to 1954, there was no prohibition of alienation and therefore, purchase made in the year 2006, was valid and the provisions of Act, 1977 are not attracted. Learned counsel also sought to contend that as the property is in Telangana State, the question of reference to the Andhra Pradesh Rules or the Act does not arise.

3. Learned Assistant Government Pleader would point out that fact that co-owners of subject property filed application to grant occupancy rights certificate (ORC) and earlier approached this Court by filing W.P.No.39617 of 2017 alleging that the said application is not disposed of, it is not open to the petitioners to contend that an assignment was granted prior to 1954 and therefore the purchase was validly made.

4. It is not in dispute that Tahsildar is competent to initiate proceedings under the Act, 1977, if, according to him, there is violation of the terms of assignment. Even according to petitioners, the land was assigned to a landless poor person. The contention of the petitioners that such assignment was granted prior to 1954 and is not burdened with restriction clause against alienation is a matter for consideration by the competent authority, on placing on record relevant facts and material documents. Further, the issue of applying for ORC on the same land also requires consideration. The issue requires consideration on verification of revenue records and assignment Pattas vis-à-vis the relevant provisions of law. Thus, Court is not inclined to entertain the writ petition on that ground at this stage.

5. Learned counsel for the petitioners further contends that reference in the notice to A.P. Rules, 2007 is not valid.

6. It is appropriate to note that after the bifurcation and formation of separate 'State of Telangana', the new State has adopted all the Acts and the Rules as existing with certain modifications wherever it is felt necessary or expedient. Therefore, reference to 'Andhra Pradesh' in the form or in the body of the order or in the title of the rules is erroneous and the said Rules or the Act are not applicable,

more particularly, in view of the provisions of the A.P.Reorganization Act, 2014.

7. Admittedly, so far petitioners have not filed any explanation. Even before an explanation is filed and the same is considered, petitioners cannot seek decision by this Court on merits, by considering the contentions of the learned counsel for the petitioners as well as learned Assistant Government Pleader, on the status of the land and their claim of valid passing on title to them.

8. Thus, leaving it open to the petitioners to file explanation to the notice issued on 24.02.2018, this writ petition is disposed of. If such explanation is filed within one week from today, without waiting for the copy of the order, the Tahsildar shall consider the same and shall pass reasoned order and communicate the same to the petitioners. Till a decision is made, no coercive steps should be taken against the petitioners.

9. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence. No order as to costs.

27.04.2018
SS

P.NAVEEN RAO, J

