

HON'BLE SRI JUSTICE S.V. BHATT

W.P. No.16070 OF 2018

ORDER:

Heard Mr.B.S.Shivaji for petitioner and the learned Assistant Government Pleader for Assignment.

The petitioner challenges order of resumption Roc.No.43/2018/SA dated 06.04.2018 passed by 4th respondent as violative of principles of natural justice and also the ratio laid down by this Court in Dasari Narayana Rao v. Deputy Collector and Mandal Revenue Officer, Serilingampalli¹ and Sudalagunta Sugars Ltd., Chittoor District, A.P. v. Joint Collector, Chittoor², for the proposition that the notice issued under the A.P. Assigned Lands (POT) Act,1977 (for short 'the Act') must bear the details of assignment, name of assignee, date of assignment, the conditions with which the assignment was issued etc. and that the notice is required to be served in Form Nos.1 and 2 both to the assignee as well as the alleged transferee in case of contravention of conditions of assignment. Mr.Shivaji further contends that in the case on hand, resumption is ordered by referring to Mandal Revenue Inspector's report and reliance on said report is impermissible in law. He finally contends that such procedure is completely fallacious, illegal and untenable.

The Assistant Government Pleader objects to the maintainability of the writ petition and submits that the petitioner ought to be relegated to the remedy of appeal before the Revenue Divisional Officer and raise all grounds against the order of

¹ 2010 (4) ALT 655

² 2017 (2) ALD 529

4th respondent. On 01.05.2018, time was granted to respondents to file counter affidavit or produce the record. The Assistant Government Pleader reports that he received instructions from the respondents.

After perusing the record, prima facie, this Court is of the view that the 4th respondent exercised his authority or jurisdiction under the Act firstly without properly examining circumstances under which the resumption proceedings could be initiated and secondly, even assuming without recording a finding that a few allegations attracting the mischief sought to be prevented by the Act are present, the 4th respondent has not followed the procedure much less acted in the manner which satisfies the requirements of law and principles of natural justice.

The proceedings are too vague and it is concluded that the proceedings impugned in the writ petition are illegal and also contrary to the principle laid down by this Court in the decisions referred to above. For the above reasons, the proceedings impugned in the writ petition are set aside. The 4th respondent, if has reason to proceed under the Act, the 4th respondent is required to keep in view the principles laid down by this Court in the decisions referred to above and act accordingly. The writ petition is ordered as indicted above. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT, J

Date: 03.07.2018
Sp