

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.19829 of 2007

ORDER:

It is the case of the petitioner that his father was an ex-serviceman and was allotted Acs.5.27 cents of land in R.S.No.567/1 of Kalavapudi Village, Kalla Mandal, West Godavari District, in 1952 and on the demise of his father, his mother was given patta with respect to the said land on 05.02.1985. It is his further case that his mother executed a lease deed in favour of one Tirumani Mariyya for a period of 99 years, by a registered lease deed bearing No.4106/1982, dated 28.12.1982, and that on the demise of the said Tirumani Mariyya, the fourth and the fifth respondents were in possession of the land to an extent of Acs.3.09 cents and Acs.2.18 cents in Survey Nos.567/1 and were granted pattas on 18.04.1992 and 26.03.1993 respectively. It is his further case that the fourth respondent sold his land to the sixth respondent through a registered sale deed, dated 02.05.2002. It is his further case that he filed several representations before the authorities concerned seeking to restore their possession with respect to the land in question under the provisions of the Andhra Pradesh Assigned Lands

(Prohibition of Transfers) Act, 1977 (for short 'the 1977 Act') and ultimately, after enquiry, the third respondent – Tahsildar, Kalla Mandal, West Godavari District, issued endorsement, dated 06.06.2007 categorically stating that the land allotted to an ex-serviceman does not come under the 1977 Act, which is applicable to the patta lands granted in favour of the landless agricultural coolies, and such allotment is governed by a different set of Rules, whereunder, there is no prohibition for selling such land. Hence, the petitioner filed the present Writ Petition seeking to declare the said endorsement as illegal and arbitrary and consequently, to direct respondents 1 to 3 to resume the land in question from respondents 4 to 6 under the provisions of the 1977 Act and restore the same to him.

Respondent Nos.1 to 3 filed a counter-affidavit, in which, while setting out the facts narrated above and denying the assertion of the petitioner that his mother was an illiterate, it is asserted that she was well-educated and worked as a Teacher in Mandal Parishad School and at no point of time, she was in possession of the land in question and that she along with all her family members sold away the land to Sri Tirumani Mariyya by means of unregistered sale deed. It is further asserted that the

Government issued Memorandum bearing No.2006/B1/80-2, dated 03.09.1980, stating that the 1977 Act and the instructions issued by it in Memo No.2255/B1/79/Revenue, dated 27.08.1979, apply only to the lands assigned to the landless poor persons and not to the lands assigned to ex-servicemen or political sufferers. It is also asserted that by G.O.Ms.No.743, dated 30.04.1963, the Government clarified that the lands assigned to ex-servicemen cannot be sold or otherwise alienated for a period of ten years, which means that they can be sold after ten years of such assignment.

Having considered the above, as there is no dispute that the land in question was allotted to the petitioner's father through Kalavapudi Ex-Servicemen's Cooperative Agricultural Land Colonization Society Limited, which was allotted land to an extent of Acs.1821.60 cents vide G.O.Ms.No.909, dated 14.05.1954, in the light of various clarifications issued by the Government, there being no prohibition for alienation after ten years of allotment and in view of the fact that the petitioner's mother along with her family members sold away the land in question to Sri Tirumani Mariyya through an unregistered sale

deed, this Court finds no reason to interfere with the impugned endorsement.

In those circumstances, the Writ Petition is dismissed.

Miscellaneous Petitions, if any pending shall stand dismissed. There shall be no order as to costs.

CHALLA KODANDA RAM, J

11th APRIL, 2018.

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