

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NO.21325 OF 2016

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, declaring the action of the respondents herein in neither disposing of the representations and legal notice issued by and on behalf of the petitioner dated 02.04.2015 nor taking any action on the representation made till date as illegal, arbitrary and opposed to the established principles of law and consequently, direct the respondents to dispose of the representation made by the petitioner through Legal Notice dated 02.04.2015.

It is alleged that Government land in an extent of about Ac.14-00 in Sy.Nos.67A3, 67A2, 30-2, 67-1, 63-B14, 63-B15, 63-B16 was distributed previously by the respondent authorities among Schedule Tribe landless poor persons of Mangalapur Village. Out of the said beneficiaries, some of them died long back and rest of them moved out of the village and presently, none of the said beneficiaries are residing in the village. Therefore, the petitioner submitted representations on 03.03.2014 and 15.09.2014 alleging that land of an extent in Ac.18-00 in Sy.No.225 is in occupation of one Yaragarla Chiranjeevi and he raised Eucalyptus plantation in the entire land of Ac.18-00. Earlier, the petitioner made a representation to the Sub-Collector with a request to arrest Yaragarla Chiranjeevi and to fix boards of the land. But, the Mandal Revenue Officer did not take any action.

Further, the petitioner also made a request to distribute the land in Sy.No.15(b) to Pinddu Kanche, Guntapudi Balaguravaiah, Guntapudi Srinivasulu, Guntapudi Venkata Ramanaih, Guntapudi Ankaiah, Guntapudi Narsaiah, Guntapudi Balaiah, Guntapudi guraiah, Guntapudi Vemaiah, Guntapudi Seenaiiah, Guntapudi Venkata Subbaiah, Guntapudi Pedda Guraiah, Siddaiah, but no action has been taken so far and it was signed by Chalampati Vijayalakshmi, Vekota Ramanayya and G. Pedda Venkayya. As, all the respondents failed to take any action on the representation, the petitioner got issued a legal notice dated 02.04.2015 to the respondents 2, 3 & 4 raising various contentions, mainly contending that the land in an extent of about Ac.14-00 in Sy.Nos.67A3, 67A2, 30-2, 67-1, 63-B14, 63-B15, 63-B16 was distributed to various landless poor persons of Mangalapur Village, out of which some of the beneficiaries expired and some others have left the village. Taking advantage of the death of real beneficiaries one Edagali Ramesh Reddy, Edagali Vasantha Kumar Reddy, Veeramapa Sai Kumar Reddy, Kovuti Siddaiah, Mopuru Ramanaiah, Sirasammeti Narasaiah, Sirasamamaeti Suresh and G. Venkaiah illegally occupied the said lands and they are enjoying the same and the said persons are landlords, they are not eligible to enjoy the same. Further, the petitioner who belongs to Scheduled Community though gave several representations since 2013, no steps have been taken by the respondents so far and finally requested the second respondent to take necessary action immediately in removal of illegal occupation of the lands of the landlords and protect the rights of the landless poor persons and

takeover the possession of the said land, distribute the said lands to the poor persons in Mangalapur Village.

During hearing, learned counsel for the petitioner Smt. K. Pallavi contended that the petitioner being a landless poor, made several representations to the respondents and got issued legal notice to the respondents on 02.04.2015, requesting to take necessary action for removal of the persons who are in possession of assigned lands, since some of the original beneficiaries died and other beneficiaries have left the village, thereby, violated the conditions of the patta granted in favour of the landless poor persons and requested to resume the possession and distribute the land to the petitioners and other persons referred supra. This petitioner is entitled to make such request, in view of violation of conditions of the patta and contravention of Section 3 of A.P. Assigned Lands (Prohibition of Transfers) Act 1977 (for short 'Act') and when the beneficiaries violated the conditions of patta assignment, the District Collector or any other officer, not below the rank of Tahsildar can initiate the proceedings under Section 4 of the Act and take necessary action. But, so far, the respondents 2 to 4 did not initiate any action and requested to direct the respondents 2 to 4 to dispose of the representations of the petitioner in accordance with law.

None appeared on behalf of the learned Government Pleader for Assignment (State of Andhra Pradesh).

As seen from the contentions raised in the writ petition, that the original beneficiaries are landless poor tribals of Mangalapur

Village, where, some of them have allegedly died and some of them left the village.

Further, one Yaragarla Chiranjeevi has occupied the entire extent of land in Ac.18-00 in Sy.No.225 and raised Eucalyptus plantation trees as per representations 03.03.2014 and 15.09.2014 and as per the legal notice date 02.04.2015, taking advantage of the death of real beneficiaries one Edagali Ramesh Reddy, Edagali Vasantha Kumar Reddy, Veeramapa Sai Kumar Reddy, Kovuti Siddaiah, Mopuru Ramanaiah, Sirasammeti Narasaiah, Sirasamamaeti Suresh and G. Venkaiah illegally occupied the said land and they are enjoying the same as landlords. Thus, there is any amount of discrepancy between the representations and legal notice regarding enjoyment of the property assigned to the landless poor persons of Mangalapur Village.

More curiously, nowhere, in the representations or in the legal notice or in the writ petition, this petitioner disclosed the names of the assignees of the land and the extent, details of the expired persons and list of the persons who have left the village, except making a bald allegation that some of the beneficiaries of assignment expired and some of them left the village. In the absence of any details, based on bald allegations, both in the representations and legal notice which are mutually destructive, the Court cannot direct the authorities to initiate resumption proceedings on the representations made by this petitioner.

Strangely, the petitioner in his representations did nto make any request to allot any land to him, but, requested to allot land to

various persons referred supra. In the legal notice dated 02.04.2018 got issued by the petitioner to the respondents, the petitioner requested the authorities to remove the illegal occupation of the land and protect the rights of landless poor persons, by taking the land from their possession and distribute the same among the landless poor persons of Mangalapur Village and no specific request is made to allot the land to any specific person.

According to Section 3 of A.P. Assigned Lands (Prohibition of Transfers) Act 1977;

(1) Where before or after the commencement of this Act any land has been assigned by the Government to a landless poor person for purpose of cultivation or as a house-site then, notwithstanding to the contrary in any other law for the time being in force or in the deed to transfer or other document relating to such land, it shall not be transferred and shall be deemed never to have been transferred, and accordingly no right or title in such assigned land shall vest in any person acquiring the land by such transfer.

(2) No landless poor person shall transfer any assigned land, and no person shall acquire any assigned land, either by purchase, gift, lease, mortgage, exchange or otherwise.

(3) Any transfer or acquisition made in contravention of the provision of sub-section (1) of sub-section (2) shall be deemed to be null and void.

(4) The Provisions of this section shall apply to any transaction of the nature referred to in sub-section (2) in execution of a decree or

order of a Civil Court or of any award or order of any other authority.

(5) Nothing in this section shall apply to an assigned land which was purchased by a landless poor person in good faith and for valuable consideration from the original assignee or his transferee prior to the commencement of this Act and which is in the possession of such person for purposes of cultivation or as a house-site on the date of such commencement.

Thus, when a person contravened the terms and conditions of assignment and transferred the property either by way of gift, conveyance, etc, such transfer is deemed to be invalid and upon satisfying the District collector or Tahsildar or any other person authorized by him in this behalf about contravention of Section 3 of the Act and can initiate proceedings for resumption under Section 4 of the Rules framed under the Act, after issuing a notice thereunder to the beneficiaries who allegedly contravened the provisions of the Act.

A bare look at Section 4 of the Act, when any beneficiaries contravened Section 3(1) of the Act, the authorities can initiate the proceedings. But, according to Section 3(1) of the Act, transfer of such lands is deemed to be void. But, here, it is not the case of this petitioner that the beneficiaries to whom the land was assigned contravened Section 3(1) of the Act. Some of the villagers died and some of them left the village. But, no details were furnished by the petitioner either in the writ petition or in the representations or in the legal notice, including the details of death of the beneficiaries,

etc. In the absence of any such details, directing the authorities/respondents 2 to 4 to take necessary action on the representations or legal notice is impermissible. Hence, in the absence of proof of contravention of conditions under Section 3(1) of the Act, respondents 2 to 4 are incompetent to initiate proceedings under Section 4 of the Act. Therefore, the request made by the learned counsel for the petitioner cannot be acceded to and no relief can be granted in this writ petition. Thus, I find no merits in the writ petition and the same is liable to be dismissed.

In the result, the writ petition is dismissed.

Consequently, miscellaneous applications pending if any, shall stand dismissed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:26.04.2018

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