

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.V.M.P.No.5337 of 2016 in W.P.No.35736 of 2016

and

W.P.No.35736 of 2016

ORDER:

Heard Sri S.R. Sanku, learned counsel for the petitioners, learned Government Pleader for Revenue appearing for the respondent Nos.1 to 5 and Sri P.Durga Prasad, learned counsel for respondent Nos.5 to 7, 10, 12 to 14.

2. Petitioners have questioned in this Writ Petitioner the order dt.20-12-2014 in C.M.A.No.13 of 2007 of the Revenue Divisional Officer, Polvancha, Khammam District (1st respondent).

3. The 2nd petitioner is the son of 1st petitioner. The petitioners claim to belong to Scheduled Caste community and contend that 1st petitioner's grand father by name Gandham Raghavulu was assigned Ac.5.00 of land in Sy.No.1228/39-43 of the said village in 1968.

4. Petitioners contend that one Simakurthi Vishwanadham, brother of 6th respondent, claimed to have purchased these lands along with others in 1968 from 1st petitioner's grand father; that the Tahsildar, Aswaraopeta Mandal (2nd respondent) issued notice dt.13-04-2007 alleging that there is a violation of the provisions of A.P. Assigned Lands (Prohibition of Transfer) Act, 1977 (for short "the Act"); and then passed orders on 21-07-2007 resuming the land and directing eviction of respondent Nos.5 to 14; that respondent Nos.5 to 14 then

preferred appeal to the 1st respondent, which was numbered as C.M.A.No.13 of 2007; and that the said C.M.A. was allowed on 20-12-2014.

5. They contend that they were not made parties in the appeal and they were not heard in the appeal and on the basis of the said order, respondent Nos.5 to 14 were attempting to dispossess them from the subject land. They contend that the sale deed executed on 25-07-1968 by 1st petitioner's grand father Gandham Raghavulu in favour of Simakurthi Vishwanadham for an extent of Ac.5.00 of land is void *ab initio* in view of the Act.

6. On 07-11-2016, this Court directed to maintain *status quo* as on that day to be maintained in all respects with regard to the subject property.

7. W.V.M.P.No.5337 of 2016 is filed by respondent Nos.5 to 7, 10 and 12 to 14 to vacate the said order.

8. The respondent no.s 5-7,10 and 12-14 contended that the order passed by the 1st respondent does not suffer from any defect; that 1st respondent rightly held that the subject lands are old patta lands granted to Viswanadham and his brother Ramalingam well before the revision settlement of 1952; and that they are not assigned lands at all. They contend that in the absence of evidence to show that the subject

land is assigned land, initiation of proceedings by the Revenue officials under the provisions of the Act cannot be sustained.

9. Learned Government Pleader for Revenue appearing for respondent Nos.1 to 4 also supported the order dt.20-12-2014 in C.M.A.No.13 of 2007 passed by the 1st respondent.

10. The record reveals that 2nd respondent issued a notice on 06-02-2007 to respondent Nos.5 to 8 under the provisions of the Act without giving details as to who was the assignee, to whom the land was originally assigned and whether there was any condition prohibiting alienation in the said assignment.

11. The 9th respondent and the brother of Viswanadham filed W.P.No.4699 of 2007 before this Court, which was dismissed directing the Writ petitioners therein to file objections. Thereafter objections were filed by the said persons before the 2nd respondent. He issued proceedings on 21-07-2007 ordering eviction of the said persons from the subject land as well as other extent of land in Aswaraopet village and directed taking of possession of the same.

12. Respondent Nos.5 to 14 filed C.M.A.No.13 of 2007 before the 1st respondent and also obtained stay of execution of the order passed by the 2nd respondent on 17-10-2007 in I.A.No.2 of 2007.

13. The 1st respondent initially vacated the order of stay on 15-04-2008 and thereafter respondent Nos.5 to 14 filed W.P.No.12563 of 2008 wherein this Court directed *status quo* to be maintained till disposal of the appeal. Ultimately, the said appeal was allowed on 20-12-2014 setting aside the order dt.21-07-2007 of the 2nd respondent.

14. It is important to note that though the 1st petitioner claims to be the grand daughter of Gandham Raghavulu, who is alleged to have been assigned the subject land by respondent Nos.1 to 4, no document is filed to show the relationship between the said assignee and the petitioners. In the absence of any such material having been filed by Writ petitioners, it cannot be said that they are related to Gandham Raghavulu.

15. That apart, there is no material filed by the petitioners to show that the land had been assigned to Gandham Raghavulu at all. Unless there is an assignment of the subject land with a condition that it shall not be alienated, it is settled law that the provisions of the Act have no application.

16. In the present case, by placing reliance on the revenue records such as faisal patti as well as pahanis, the 1st respondent had come to the conclusion that the said land is old patta land granted to S.Ramalingam and Viswanadham well before the revision settlement of 1952. Also, pattadar pass books and title deeds have been given to

respondent Nos.5 to 14 by the Revenue officials and this would not have happened if subject lands were assigned lands. Therefore, it is clear that there is no evidence to show that the subject land is assigned land. Consequently, the provisions of the Act could not have been invoked by the 2nd respondent at all.

17. In this view of the matter, I am of the opinion that the petitioners have no locus to maintain the Writ Petition since their relationship with the original assignee was not established by any document and in fact there is no evidence of any such assignment at all as was found by the 1st respondent in the impugned order.

18. Accordingly, W.V.M.P.No.5337 of 2016 is allowed and order dt.07-11-2016 in W.P.No.35736 of 2016 is vacated.

19. Consequently, W.P.No.35736 of 2016 is dismissed with costs of Rs.5,000/- (Rupees Five Thousand only) to be paid by the petitioners to respondent Nos.6 and 9.

20. As a sequel, miscellaneous petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 04-01-2018

VSV