

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 27863 of 2018

ORDER:

1) The present writ petition came to be filed seeking issuance of writ of mandamus or any other appropriate writ, direction, order or orders declaring the action of respondents 4 to 6 in trying to dispossess the petitioners from the agricultural dry land admeasuring Ac.4.37 cents in Sy.No.2/2 situated at Kothuru Village, Tirupati Rural Mandal, Chittoor District, for the purpose of constructing houses under NTR Housing Scheme, without following due process of law, as illegal, arbitrary and violative of principles of natural justice.

2) The averments in the affidavit filed in support of the writ petition would show that the father of the petitioners by name Krishna Reddy purchased the said land through a registered sale deed vide document No.58/1972 dated 05.01.1972, from its owners ie. P.Venkataiah and P.Mangamma. The name of the father of the petitioners was entered in the revenue records and pattadar pass books and title deeds were also issued in his favour. It is to be noted here that one Pasala Venkataiah, was assigned this land by way of granting patta dated 11.09.1961. About ten years thereafter, he along with his daughter by name Mangamma sold out the same to the father of the petitioners, who died on 10.10.2012, leaving behind the petitioners as his legal heirs. While things stood thus, the Tahsildar issued a notice to the father

of the petitioners and also to the legal heirs of original assignee for resumption of the land. After conducting enquiry the Tahsildar cancelled the assignment patta in DKT No.352/ 77 dated 06.06.1964 issued in favour of Venkataiah. Aggrieved by the same, an appeal came to be preferred before the R.D.O., Tirupati, who, set aside the order of the Tahsildar and remanded the matter back to the Tahsildar for a *de nova* enquiry vide proceedings dated 24.07.2012. Subsequent to the order passed by the R.D.O., the Tahsildar conducted *de nova* enquiry and issued proceedings dated 06.05.2013 holding that the entire Tirupati Rural Mandal has been notified under Section 4 (1) (C) of Andhra Pradesh Assigned Lands (Prohibition on Transfers) Act, 1977 (for short "the Act") and hence there is no possibility of considering the request of the applicant. It is further stated that the lands are handed over to the General Manager, A.P.Rajeev Swagruha Corporation Limited, Hyderabad on 23.05.2008 itself. Aggrieved by the said action, the petitioners preferred an appeal before the R.D.O., Tirupati, who held that the order of the Tahsildar, in resuming the land is not valid. It was further held that the mandate of the Tahsildar in the present case is to decide whether the purchaser is eligible for regularization of assigned land under Section 3 (5) of the Act or not. It has been held that if eligible, he should regularize the land and make a reference of the same to Housing Board for necessary action. If the land is already taken over by Housing Board, the Tahsildar should propose for ex-gratia to the purchasers of the assigned land in whose favour the land

was regularized 3 (5) of the Act, in terms of G.O.Ms.No.1307 dated 23.12.1993. But it is urged that recently the revenue authorities started interfering with the possession of the petitioners saying that they want to take possession of the said property for construction of houses under NTR Housing Scheme, without following due process of law.

3) Learned counsel for the petitioners submits that they are not opposing the acquisition of land by the Government for public purpose, but the procedure contemplated under law is required to be followed for taking over the land for public purpose. According to him, the authorities are highhandedly trying to take away the land which they have been enjoying since a long time.

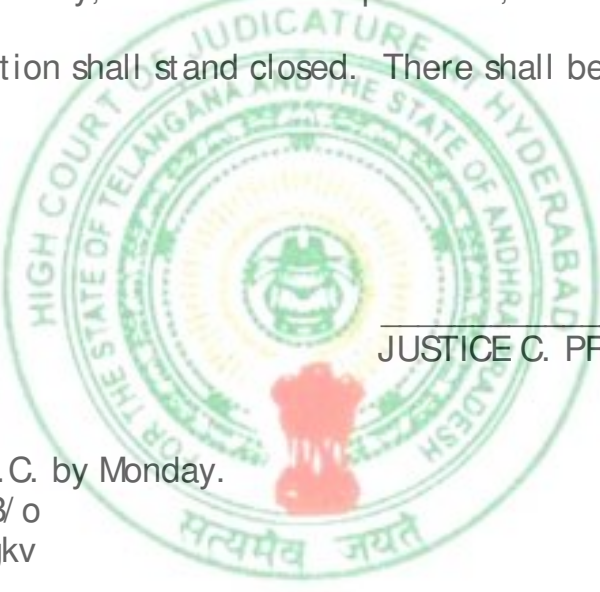
4) The Government Pleader placed on record the written instructions received from the Tahsildar, narrating the events which are referred to earlier. In para No.9 of the instructions, it is stated that the land was handed over to the General Manager, A.P.Rajeev Swagruha Corporation Limited, Hyderabad on 23.05.2008 itself for construction of apartments to weaker section housing. However, in para No.14 it is stated that the subject land was resumed from the original assignee and handed over Municipal Commissioner, Tirupati, for constructions houses to weaker section people.

5) The same is strongly disputed by the learned counsel for the petitioners stating that when the proceedings of handing over of the land to the General Manager, A.P.Rajeev Swagruha

Corporation Limited, was found fault by the Revenue Divisional Officer, the question of handing over the same to Municipal Corporation, without challenging the orders of the R.D.O., is improper.

6) Having regard to the above, the writ petition is disposed of, directing the respondents to follow the due process of law either in dispossessing the petitioners from the land in question or in acquiring the said land for public purpose.

7) Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.



JUSTICE C. PRAVEEN KUMAR

16.08.2018

Note: Issue C.C. by Monday.

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