

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION Nos. 1469 and 1470 of 2007

COMMON ORDER:

Since the parties and the point involved in both the writ petitions are one and same, both the writ petitions are heard together and disposed of by this common order.

2. Heard Mr. S. Satyam Reddy, learned counsel for the petitioners, and the Government Pleader for Revenue (Telangana) appearing for the respondents.

3. For the sake of convenience, the averments made in the affidavit filed in support of W.P.No.1469 of 2007 are discussed hereunder:

i) One Mr. Gopal, a freedom fighter, was allotted land to an extent of Acs.10.00 in Survey No.439/T situated at Chintakunta Village, Karimnagar Mandal in the year 1961 vide proceedings No.A3/1253/61. Thereafter, on his application seeking permission for sale of the said land, the Collector, Karimnagar District, 3rd respondent, permitted him to sell the land under Section 5 of A.P. Assigned Lands (Prohibition of Transfer) Act, 1977 which was communicated by the Mandal Revenue Officer, Karimnagar, 1st respondent, vide proceedings No.B1/3031/92 dated 14.10.1992.

ii) The petitioner had purchased an extent of Acs.7.20 guntas from the said Gopal by a registered sale deed dated 17.07.1997. Based on

that, the 1st respondent had transferred the ownership of the land in favour of the petitioner and issued pattadar passbooks and title deeds, and since then, she has been in possession and enjoyment of the land.

iii) While so, the 1st respondent issued a notice bearing No.B/1580/2006 dated 29.04.2006 calling upon the petitioner to explain as to why the land purchased by her should not be resumed for public purpose as it is an assigned land, for which, she submitted explanation stating that she purchased the land after the 3rd respondent had accorded permission to her vendor to sell the land. However, the respondents were interfering with her possession. Therefore, she filed W.P.No.10450 of 2006 before this Court and the said writ petition was disposed of by an order dated 23.10.2006 giving liberty to make a representation to the 2nd respondent therein, if not already made, raising all her objections for resumption of the land for public purpose and in case the respondents decide to resume the land, the petitioner shall be entitled for compensation as per the Act. However, the 1st respondent passed order dated 16.01.2007 resuming the land of the petitioner and directing the 1st respondent to take possession of the land by conducting panchanama. Aggrieved by the same, the present writ petition is filed.

4. On 29.01.2007 while admitting W.P.No.1469 of 2007 this Court granted interim stay as prayed for in W.P.M.P.No.1869 of 2007 and by virtue of the same, the petitioner is in possession of the land.

5. Learned Government Pleader for Revenue appearing for the respondents mainly contends that the 1st respondent had rightly resumed the land from the petitioner, as the petitioner purchased the assigned land contrary to the A.P. Assigned Lands (Prohibition of Transfer) Act, 1977.

6. I have considered the rival submissions made by the parties. The 1st respondent, while passing the impugned orders dated 16.01.2007, has failed to take into account the orders passed by the 3rd respondent on 14.10.1992 wherein permission was granted to the original vendor of the petitioner to sell the land allotted to him. When once permission is granted to the vendor of the petitioner, it cannot be resumed and the land becomes freehold land and the vendor of the petitioner is entitled to sell the land. If at all the respondents intend to acquire the land of the petitioner for public purpose, they can acquire the same after following the due process of law i.e., by initiating proceedings under the Land Acquisition Act. In view of the above, the impugned orders are liable to be set aside.

Accordingly, both the writ petitions are allowed and the impugned orders dated 16.01.2007 passed by the 1st respondent are set aside. No order as to costs.

Consequently, miscellaneous petitions if any pending in the writ petitions shall stand closed. There shall be no order as to costs.

ABHINAND KUMAR SHAVILI, J

16th March, 2018
cbs

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI



Writ Petition Nos. 1469 & 1470 of 2007
(allowed)

16th March, 2018

cbs