

HON'BLE SRI JUSTICE S.V. BHATT

W.P. No.33013 OF 2016

ORDER:

Heard Ms. T.V.Sidevi for petitioner and the learned Government Pleaders for Revenue, Assignment and Irrigation.

The petitioner challenges proceedings Rc.No.1654/2016-A dated 25.07.2016, as illegal, arbitrary and unconstitutional.

Respondent No. 4 through the proceedings impugned has held and directed the petitioner as follows:

“ In view of the above circumstances, it is hereby ordered that the land has been shown in the schedule below is hereby resumed to the Government for having violated the conditions of the grant i.e. not utilizing for cultivation since many years by the assignee or his legal heirs.

Name of the village	Survey No.	Extent	Classification
Kakani	405/1	1.63	Sarkar Poramboke (Cheruvu)

Meanwhile the villagers of Kakani Village being suffering from lack of burial ground for Hindu Community people since many years and they are attending the Kharma Kandas in the edge of Vagu course which is dangerous and requested through a representation dated 24.06.2016 for grant of an extent of Ac.1.83 cents of Govt. land to the Hindu Burial Ground, so, that to develop it by Swargapuri.

Hence, in view of the above circumstances, as no other alternative land is existed in the village near by, for the purpose of Hindu Burial Ground and the MPDO, Narasaraopet and A.E., Irrigation along the Janmabhumi Committee have given approval for construction of Fire Stage etc. and to provide all amenities to the burial ground, as there is other land nearly an extent of Ac.230.00 is available under the classification of Sarkar

Poramboke (Cheruvu) and got no problem with water scarcity, it is hereby ordered that an extent of Ac.1.83 cents in Sy.No.405 of Kakani village is recommended for grant of Hindu Burial Ground subject to conversion of classification. Meanwhile proposals will be sent to the District Collector, Guntur through the Revenue Divisional Officer, Narasaraopet.

The Village Revenue Officer, Kakani is hereby directed to take possession of the land in question and implement the changes in Village Records as Sarkar Poramboke (Cheruvu) and report compliance and the land shall be handed over to Panchayat Secretary, Gram Panchayat, Kakani Village.”

The petitioner challenges proceedings impugned in the writ petition, as illegal and beyond the scope of A.P. Assigned Lands (POT) Act, 1977 (for short ‘the Act’). According to petitioner, the 4th respondent gets jurisdiction to resume land if one or the other circumstances referred in Sections 3 and 4 of the Act is attracted. In other words, the jurisdiction of 4th respondent is attracted if an assignee disposed of assigned land contrary to the assignment conditions and such assignment is treated as void and for resumption of land. notices in Form Nos. 1 and 2 are issued. In the case on hand, there is no violation or breach of condition by the petitioner. The assignment is not disputed much less the petitioner committed breach of conditions of assignment. Therefore, the order of resumption is illegal, arbitrary and amounts to exceeding the jurisdiction conferred on 4th respondent.

Counter affidavits are not filed by the respondents and the counsel have made submissions by referring to the record.

The proceedings impugned in the writ petition are already excerpted. From the reading of the proceedings impugned in the writ petition, it is evident that resumption of an extent of Ac.1-63 cents in Survey No.405/1 is ordered by 4th respondent for providing land to Hindu Burial Ground and also a Fire Stage for cremation of the bodies. Reference thus far and not beyond is required to set aside the proceedings impugned in the writ petition. Therefore, the resumption proceeding for the purpose of assigning to Hindu Burial Ground to the community is not one of the grounds provided for under the Act. For the above purpose the resumption order passed is unsustainable and hence the proceedings impugned in the writ petition are set aside.

The view expressed in the order shall not be understood as this Court restricting the discretion or jurisdiction of respondents to resume land in accordance with law and after following the procedure stipulated in this behalf.

The writ petition is ordered with the above observation. No order as to costs.

S.V.BHATT, J

Date:11.04.2018

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