

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.42462 OF 2017

Dated:19.01.2018

Between:

Sarvani Krishnaiah, S/o. Chennaiah,
Aged 30 years and others

.. Petitioners

And

State of Telangana, rep., by its
Special Chief Secretary, Revenue
Department, Telangana Secretariat
Buildings, Hyderabad and others

.. Respondents



The Court made the following:

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ORDER:

Heard Sri K.S. Murthy, learned counsel for the petitioners, and Sri Vedula Srinivas, learned counsel for respondents 7 to 10.

2. When vacate petition is taken up, both the learned counsel requested for disposal of the Writ Petition and accordingly the Writ Petition itself is disposed of by this order.

3. This Writ Petition is filed seeking the following relief:

“... to issue a Writ, Order or Direction more particularly one in the nature of WRIT OF MANDAMUS declaring the action of the respondent authorities in ordering status quo on our lands and preventing the petitioners from entering and cultivating the assigned lands as illegal, arbitrary, against the principles of natural justice and contrary to the Acts and Rules in force and directly offending our rights under Article 14, Article 21 and Article 300A of the Constitution and consequently set aside the proceedings No.E1/1411/2017 dated 23.08.2017 and direct the respondents not to interfere with possession and patta rights over the lands in Sy.Nos.38/2, 38/3 and 38/4 of Macharam village, Balanagar Mandal, Mahabubnagar District and pass such further order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

4. By order dated 23.08.2017, the Joint Collector, Mahabubnagar District, directed maintenance of *status quo* by treating the representation stated to have been filed by the 7th respondent as an appeal under Section 4-A (2) of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act'). Aggrieved thereby, this Writ Petition is filed.

5. Learned counsel for the petitioners submits that they belong to landless poor families and their fathers were assigned lands in 1976. As there was no proper cultivation, the families have migrated to other places for eking out their livelihood. He submits that the petitioners were in continuous possession and when they came back to the village, they found that illegally names of respondents 8 to 10 are shown in the revenue records and they were sought to be dispossessed. At that stage, the petitioners came to know about passing of order dated 23.08.2017 by the Joint Collector. Learned counsel further submits that the petitioners are the assignees and as their assignment was not cancelled, no other person can dispossess them from the assigned lands. It is further contended that respondents 8 to 10 are non-existent assignees and are non-locals to the village and they were illegally brought into existence by the 7th respondent, who is actually intending to grab the subject land.

6. A reading of the representation and the order dated 23.08.2017 would disclose that the 7th respondent fairly informs the Joint Collector that he purchased the land which was assigned and that assignment was not known to him and it was a *bona fide* purchase. The 7th respondent would submit that he purchased the land long ago and has been in possession and enjoyment of the same. Taking note of this aspect, the Joint Collector entertained the representation as appeal and passed the order impugned herein.

7. Learned counsel for respondents 7 to 10 fairly submits that as no orders were passed by the original authority, entertaining

petition filed by the 7th respondent as an appeal was itself erroneous and that no proceedings would lie to the Joint Collector unless a decision is made by original authority. He further submits that having realized that the said proceedings are not maintainable, respondents 7 to 10 have instituted O.S.No.9 of 2018 on the file of the II Additional District Judge, Mahabubnagar, seeking to grant permanent injunction. He therefore submits that the order passed by the Joint Collector can be declared as illegal.

8. Having regard to the fair submissions, the Court is not examining other issues agitated in this Writ Petition. The order impugned in the Writ Petition is not sustainable as no decision was made by the original authority dealing with the issue of assignment under the Act out of which an appeal would lie before the Joint Collector. The Joint Collector could not have converted representation made by 7th respondent as a *suo motu* appeal under Section 4-A(2) of the Act and pass orders of *status quo*. Therefore, the order *per se* is illegal and is liable to be set aside.

9. The Writ Petition is accordingly allowed and the order dated 23.08.2017 is set aside. However, it is made clear that it is open to respondents 8 to 10 to prosecute the pending suit in the Court of II Additional District Judge, Mahabubnagar. It is also open to the petitioners herein to raise all objections as available in law including the contentions urged in the Writ Petition. It is needless to observe that the trial Court shall decide the pending suit on its merits. It is also made clear that the Court has not expressed any opinion on the rival claims. Further, if petitioners are aggrieved by alleged assignment granted in favour of respondents 8 to 10, it is

open to them to work out their remedies as available to them in law. There shall be no order as to costs.

Miscellaneous petitions, if any filed in this Writ Petition shall stand closed.

P. NAVEEN RAO, J

Date:19.01.2018

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