

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.46448 of 2018

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed seeking to declare the order issued by the 3rd respondent vide proceedings, dated 05.09.2017, as arbitrary and illegal and consequently, to set aside the same and direct respondents 3 and 4 to regularize the land of the petitioners admeasuring Ac.10.30 guntas in Survey No.264, situated at Venkatagiri Village, Khammam Rural, Khammam District.

2. Heard learned counsel for the petitioners and the learned Assistant Government Pleader for Revenue appearing for the respondents.

3. The 3rd respondent passed by the impugned order and the operative portion of the orders reads as follows:

“In view of the above, the Tahsildar, Khammam Rural is hereby directed to take necessary action in the resumption of the above mentioned assigned lands from the applicants under the provision of Section (3) of A.P.A.L (POT) Act, 1977 as amendment Act No.21 of 2008 within (10) days from the date of receipt of this order and report compliance.”

4. Learned counsel for the petitioners submits that the petitioners have purchased the subject property *bona fide* and therefore, their cases have to be considered in terms of Section 3 (5) and 4 (1) of the POT Act and that without considering the said aspect, the impugned order is passed.

5. Learned Assistant Government Pleader for Revenue submits that it is only a communication between the 3rd respondent-Revenue

Divisional Officer and the Tahsildar and what all the Revenue Divisional Officer is, the Tahsildar is to follow the procedure initiated under the POT Act for resumption of the lands.

6. A reading of the impugned order of last paragraph appears to be shows that necessary action should be taken within ten (10) days for resumption of subject lands. Following procedure, passing an order and issuing of the notice cannot be done within ten (10) days.

7. Learned counsel for the petitioners submits that the petitioners have not been issued any notice till date.

8. In view of the same, the Writ Petition is disposed of directing the respondents to follow the procedure, if action is to be initiated under POT Act against subject lands. It is open for the petitioners to plead that they *bona fidely* purchased the property and entitled for benefit under Section 3 (5) and 4 (1) of the POT Act when the notices are issued and the competent authority is directed to consider the same and pass appropriate orders. Till then, no coercive steps shall be taken against the petitioners.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

DECEMBER 21, 2018
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A.RAJASHEKER REDDY, J

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Date:21.12.2018

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