

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.46677 of 2018

ORDER:

The petitioner assails the action of the respondent authorities in trying to dispossess him from the land in an extent of Ac.1-34 cents in Survey No.89-3, and Ac.2-14 cents in Survey No.89-1 (total admeasuring Ac.3-48 cents) of Lopudi village, B. Butchiyyapeta mandal, Visakhapatnam District.

2. Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue, State of Andhra Pradesh. With the consent of both the parties, the matter is being disposed of at the admission stage considering the narrow compass within which the relief is sought.

3. Learned counsel for the petitioner submits that the petitioner is an Ex-Serviceman having served in Indian Air Force and the petitioner had purchased Ac.3-48 cents of land in Survey Nos.89-1 and 89-3 of Lopudi village, B. Butchiyyapeta Mandal, Visakhapatnam District, under an agreement of sale dated 27.05.2005 and since then he is in possession and enjoyment of the same by cultivating it. It is further submitted that the petitioner, being an Ex-Serviceman, is also eligible for grant of Ac.5-00 cents of land in terms of G.O.Ms.1142. Recently, the petitioner came to be aware that the land that he purchased on 27.05.2005 through agreement of sale dated 27.05.2005 is, in fact, an assigned land and that there is prohibition of sale of assigned lands under the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977. Having come to know about the same, he petitioned to the 3rd respondent-Tahsildar on 03.03.2008 to consider assigning the subject land in his favour as he is a bonafide purchaser and as he is also eligible for grant of land under the Defence Services quota.

4. On the other hand, learned Government Pleader submits that the sale of assigned lands is prohibited under the Act and the prohibition is absolute.

5. Sub Section (5) of Section 3 of the Act reads as under:

"Nothing in this section shall apply to an assigned land which was purchased by a landless poor person in good faith and for valuable consideration from the original assignee or his transferee prior to the commencement of this Act and which is in the possession of such person for purposes of cultivation or as a house-site on the date of such commencement."

6. Sub-Section (5) of Section 3 of the Act provides for protection to a person who had purchased the assigned land for valuable consideration in good faith. It is the assertion of the petitioner that he is eligible to be considered in terms of Section 3(5) of the Act, as well as under G.O.Ms.No.1142.

7. In the circumstances, the writ petition is disposed of with a direction to the respondent authorities to consider the case of the petitioner both with respect to G.O.Ms.No.1142 and also in terms of Section 3(5) of the Act. The petitioner is also permitted to make further representation setting out the details. Inasmuch as the petitioner is admittedly in possession of the subject land and cultivating the same, till such time the competent authority passes appropriate orders, his enjoyment and cultivation of the subject land shall not be interfered with.

JUSTICE CHALLA KODANDA RAM

24th December, 2018

Note: Issue C.C. in one week.

B/o KSM

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