

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.7408 OF 2019

DATED :09.04.2019

Between :

Smt Sagi Anasuya W/o.Vishwanatha Raju,
Aged about 73 yrs, Occu : Housewife,
Senior Citizen, R/o.H.No.32-477, H.A.L.Colony,
Gajularamaram, Quthbullapur Mandal,
Medchal Malkajgiri District
(Old Ranga Reddy District) & another.

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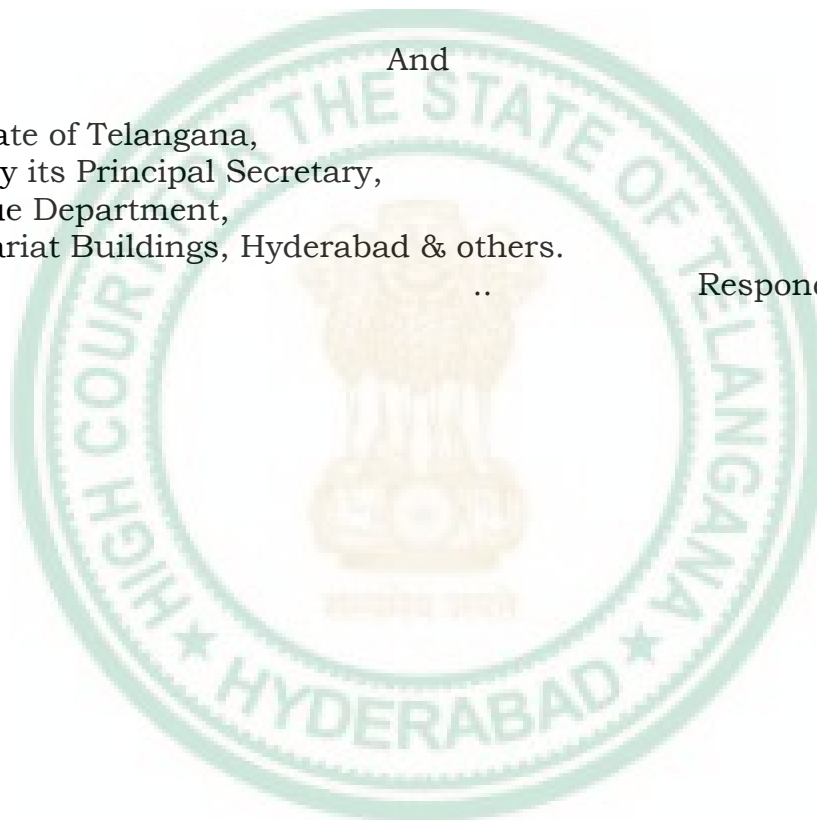
Petitioners

And

The State of Telangana,
Rep., by its Principal Secretary,
Revenue Department,
Secretariat Buildings, Hyderabad & others.

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Respondents



This court made the following :

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ORDER :

Heard learned counsel for petitioners and learned Government Pleader for Revenue for respondents.

2. The lands to an extent of Ac.3-00 in Sy.No.120/43 and 120/44 of Dommarapochampally, Gandimaisamma Dundigal Mandal, Medchal Malkajgiri District, was assigned to Itikala Narsaiah S/o.Venkataiah and Bowrampeta Ramaiah S/o.Balaiah, in the year 1981. Having come to know that the said lands were sold in violation of the provisions of the A.P.Assigned Lands (POT) Act, 1977 (for short 'the Act, 1977'), proceedings were initiated under Section 3 of the Act, 1977 and Tahsildar passed orders on 10.08.2018 cancelling the assignment granted in favour of the above said persons by resuming the lands.

3. Petitioners claim that they purchased the said lands bonafidely and on payment of full sale consideration and that they are in possession and enjoyment of the said lands for several years and their names are mutated in the revenue records. They were also given the benefit of the scheme formulated by the Government for cultivation of land. That being so, by the order impugned the assignment could not have been cancelled.

4. Learned counsel for petitioners placed reliance on the provisions in Section 4 (3) of the Act, 1977, as amended, which enables the person to make a plea before the competent

authority that he was a bonafide purchaser and that he is a landless poor person, therefore, sale can be confirmed and proceedings under the Act, 1977 can be closed.

5. However, on perusal of the explanation filed by petitioner, it is seen that no such plea was raised before the Tahsildar. Therefore, it cannot be said that Tahsildar, has not considered the objection. Against the decision made by Tahsildar, under Section 4 of the Act, 1977 the remedy of appeal is provided under section 4 (A) of the Act, 1977 to the Revenue Divisional Officer. Without exhausting the remedy of appeal this writ petition is filed.

6. As an appellate authority, it is open for him to consider all the objections including the bonafide purchase claim made by the petitioners and that petitioners are also landless poor persons, therefore, to declare the decision of Tahsildar as not valid in law and to confirm the possession and enjoyment in favour of petitioners.

7. In exercise of power of judicial review under Article 226 of the Constitution of India, ordinarily this Court do not entertain the writ petition as long as effective and efficacious remedy is available in the form of appeal. The appeal provided under Section 4 (A) of the Act, 1977 is an effective and efficacious remedy and all pleas available to the parties can be raised before the appellate authority and invite a finding from him. On the contrary in the writ jurisdiction this Court cannot go into the merits on various aspects. This Court can only go into the aspects whether the decision made by the competent authority

is not in compliance of the statutory mandate or not in compliance of the procedural formalities and that the order is not passed by the competent authority. None of these parameters are attracted in this case. Therefore, this Court is not inclined to entertain the writ petition and relegate the petitioners to avail the remedy of appeal. It is also open to the petitioners to raise all the pleas as available in law, before the appellate authority. It is made clear that there is no expression of opinion on merits.

8. With the above observations, the Writ Petition is dismissed. Pending miscellaneous petitions, if any, shall stand closed.

9th April, 2019
Rds

P.NAVEEN RAO,J

