

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.25795 OF 2019

Date: 03.12.2019

Between:

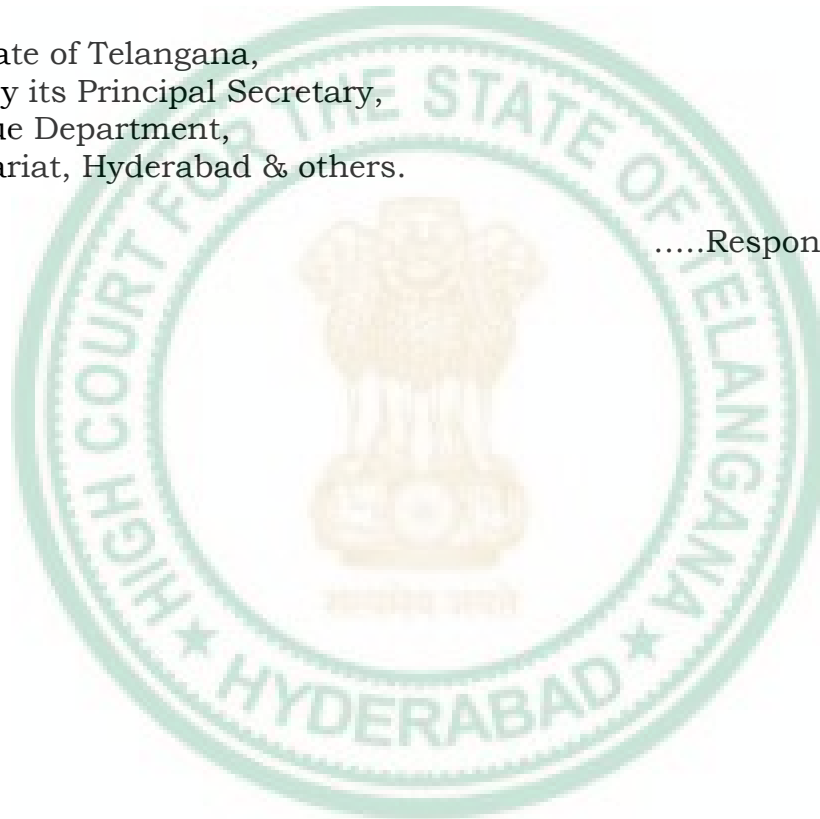
Battula Pochaiah S/o.Late Battula Narsaiah,
Aged 53 yrs, Occu : Agriculture,
R/o.H.No.3-2-12, Uppuduga Vidhi,
Vemulawada Mandal,
Rajanna Sircilla District,
Telangana-505 302 & others.

.....Petitioners

And

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

.....Respondents



The Court made the following:

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

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ORDER:

Heard learned counsel for the petitioners and learned Government Pleader for Revenue for respondents 1 to 3.

2. Petitioners claim that they are the legal heirs of the original assignees in whose favour different extents of land were assigned in Sy.No.1279 of Vemulawada Village, long ago. Alleging that the assignment conditions were violated and the lands were sold by way of simple sale deed, notices are issued in Form-II calling upon the petitioners to show cause as to why action should not be taken against them. The notices issued in Form-II are challenged in this writ petition.

3. According to learned counsel for the petitioners, though the original assignees died long ago, their assignments were not cancelled so far. According to petitioners, neither the petitioners nor the original assignees have sold the lands. Therefore, they have not violated the terms of assignment. The Form-II notices do not contain the details as to how sale was carried out and when it was sold. In the absence of those details, no explanation can be offered.

4. Learned counsel for the petitioners points out that in respect of assignees, notice in Form-I is prescribed calling upon them to show cause why assignment should not be cancelled, whereas petitioners were served with notices in Form-II mentioning the name of the original assignees without furnishing other details. He therefore submits that the entire exercise undertaken now is, *per se*, illegal. Therefore, petitioners

need not be compelled to subject themselves for the process of determination, whether assignment conditions are violated.

5. The Telangana Assigned Lands (Prohibition of Transfers) Rules, 2007 (for short 'the Rules') are notified, exercising the powers conferred on the Government by the Telangana Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act, 1977'). The Act, 1977 and the Rules prescribes procedure for eviction of the transferee/taking possession/resumption of assigned lands. Under Rule 3 of the Rules, notice in Form-I is prescribed. Form-I notice is to be given to the assignee or his successor. The notice in Form-I contains six columns, where the details are required to be furnished and to call for explanation. Form-II notice is to be issued to the alleged possessor, who claims to have purchased the property. It contains seven columns. In Column No.5, name of the transferee/assignee should be mentioned and in Column No.6, nature of transfer and date should be mentioned. While so, the impugned notice in Form-II contains the name of the original assignee, and Column Nos.5 and 6 do not contain details and date of alleged sale. Therefore, the notice in Form-II now drawn is defective and contrary to what is prescribed in the Rules. Further, Form-II should contain the name of the subsequent purchaser, but not the assignee. In this Form-II Assignee names are mentioned and notices are served on the members of assignee's family and this is also illegal. Thus, the process initiated by the competent authority is ex-facie illegal and contrary to the requirements of the Act, 1977 and the Rules made thereunder. Therefore, the same is not sustainable, and is accordingly set aside.

6. Accordingly, the Writ Petition is allowed and the matter is remitted to the Tahsildar, Rajanna Sircilla District-3rd respondent. The 3rd respondent should furnish all the details of the violations alleged including the date of sada sale deed, executed by whom and in whose favour it was executed. Since it is reported that all the assignees have died, petitioners shall furnish the details of the family members with their addresses to the 3rd respondent, within three weeks from the date of receipt of copy of this order. On obtaining the information, the notices shall be drawn and communicated to the petitioners. Pending miscellaneous petitions, if any, shall stand closed.

3rd December, 2019
Rds

P.NAVEEN RAO, J

