
(2010) 02 AP CK 0038

In the Andhra Pradesh High Court

Case No : Writ Petition No. 15613 of 2008

Chinnam Nagamani and Others

APPELLANT

Vs

District Collector and Others

RESPONDENT

Date of Decision : 09-02-2010

Acts Referred:

Andhra Pradesh Assigned Lands (Prohibition of Transfer) Act, 1977 — Section 3(5), 4

Citation : (2010) 3 ALD 1 : (2010) 3 ALT 77

Hon'ble Judges : L. Narasimhareddy, J

Bench : Single Bench

Advocate : V.L.N. Gopala Krishna Murthy, for the Appellant; G.P. for Revenue, for the Respondent

Judgement

L. Narasimhareddy, J.—The petitioners feel aggrieved by the individual orders dated 05-05-2008 passed by the Revenue Divisional Officer, Nuzvid, the 2nd respondent, rejecting the appeals preferred by the petitioners. The appeals in turn were preferred against the orders dated 31-08-2007 passed by the Tahsildar, Tiruvuru, the 3rd respondent, u/s 4 of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 (for short "the Act").

2. Different extents of land in Sy. No. 193/3 of Chittela Village, Tiruvuru Mandal, were assigned in favour of six individuals in the year 1970. They are said to have alienated the assigned lands in favour of the petitioners herein. The 3rd respondent issued show cause notices dated 01-06-2007 to the petitioners, alleging that the petitioners purchased the land mentioned therein, in contravention of the provisions of the Act, and they were required to explain as to why the land be not resumed to the Government. The petitioners submitted their explanations within the stipulated time. The 3rd respondent passed individual, but similar orders dated 31-08-2007, directing resumption of the land to the Government. The appeals preferred by the petitioners before the 2nd respondent were dismissed. Hence, this batch of writ petitions.

3. Counter-affidavits are filed on behalf of the respondents. The particulars of the

land in R.S. No. 193/3, of Chittela Village, as well as the assignment thereof are mentioned. It is alleged that the transfer of the land in favour of the petitioners is prohibited under the Act.

4. Sri V.L.N.G.K. Murthy, learned Counsel for the petitioners submits that the prohibition under the Act against assigned lands is not absolute. He contends that, firstly it must be shown that the land was assigned with a condition, prohibiting alienation, and secondly, even where such a condition exists, the plea of the transferee that he too is a landless poor, must be taken into account. Learned Counsel submits that the 3rd respondent did not undertake any discussion whatever, and has simply filled the blanks in the cyclostyled form, and ordered resumption of the land. He further submits that the exercise undertaken by the 2nd respondent is not substantially different, and he too passed the order in a mechanical way. He further submits that his clients have developed the land and have grown mango garden by spending huge amounts.

5. Learned Government Pleader for Revenue, on the other hand, submits that the orders under challenge do not suffer from any illegality. He contends that the petitioners have alternative remedy.

6. The Act, no doubt, prohibits alienation of assigned lands. However, before the provisions of the Act are invoked and a show cause notice is issued, the Tahsildar must satisfy himself, that there existed a condition, prohibiting violation (sic. alienation). It is only then, that a notice can be issued. If, in response to the show cause notice, the transferee admits that he purchased assigned land, but takes a plea that he is himself a landless poor, the question as to whether the benefit u/s 3(5) of the Act can be extended to him; must be considered. In addition to that, if any other plea is raised by the assignee or the transferee, the Tahsildar is under obligation to deal with the same. The reason is that the Act annuls the transfers, which are otherwise valid.

7. In the instant case, the 3rd respondent, no doubt, issued show cause notices to the petitioners, as required under law. It has to be presumed that he was satisfied about the applicability of the provisions of the Act. In their explanations, the petitioners raised several contentions, one of them being that, themselves were landless poor, and requested that the proceedings be dropped. Even if the 3rd respondent was not satisfied with such a plea, he was under obligation to discuss the matter, with reference to the relevant facts. Obviously, by taking note of the fact that the orders are being passed mechanically, giving rise to unwanted litigation, the department, while preparing a typical form, in which the orders must be passed, added a note, which reads,

Note: Explanation/Written Statement filed by the Purchaser/Lessee/Mortgager as the case may be should be discussed in detail in one or two paras.

8. This is almost a caution administered to the Tahsildars, requiring them not to be cryptic or mechanical. This note either has slipped from the attention of the 3rd respondent, who passed the orders, or he remained indifferent to it. He was

not even sure as to whether the petitioners have submitted explanations, at all. In the proforma, two petitions were printed for dealing with the situation, viz., (a) where explanation is submitted, and (b) where no explanation is submitted. In the orders passed by him, which are nothing but filling the blanks in printed forms, the following is stated:

A notice dated ... 2007 was served on him/her on ... 2007 as prescribed under rules. Before expiry of the prescribed period of 15 days by dt. ... Sri/Smt. ... filed a petition/explanation through his/her advocate stating that....

(or)

Even after expiry of 15 days time mentioned in the notice he/she has not submitted his/her explanation.

9. This only demonstrates the nature of application of mind. Not a word is stated about the explanation submitted by the petitioners, much less any discussion was undertaken, and the order of resumption was passed. This glaring irregularity and illegality was not even taken note of, by the 2nd respondent. It is rather unfortunate that he too has adopted a proforma which does not refer to individual facts, much less explanations, that were submitted by the petitioners.

10. Hence, the writ petitions are allowed, and the orders, dated 31-08-2007, passed by the 3rd respondent, against the petitioners, and the orders dated 05-05-2008, passed by the 2nd respondent, rejecting the appeals of the petitioners; are set aside. The matter is remanded to the 3rd respondent, for fresh consideration and disposal. It is directed that the 3rd respondent shall deal with each and every contention, that is advanced by the petitioners and support his conclusions with reasons.

11. There shall be no order as to costs.