
(2010) 08 AP CK 0095

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 628 and 650 of 2008

Madaka Savitri

APPELLANT

Vs

District Collector, Machilipatnam and Others

RESPONDENT

Date of Decision : 20-08-2010

Acts Referred:

Andhra Pradesh Assigned Lands (Prohibition of Transfer) Act, 1977 — Section 2(1), 3(1), 4, 4(1), 4A(1)

Andhra Pradesh Assigned Lands (Prohibition of Transfer) Rules, 1977 — Rule 3

Citation : (2011) 1 ALD 222 : (2011) 1 ALT 662 : (2010) 3 APLJ 301

Hon'ble Judges : V.V.S. Rao, J

Bench : Single Bench

Advocate : Y. Subrahmanyam, for the Appellant; G.P. for Revenue, for the Respondent

Judgement

V.V.S. Rao, J.—Both these writ petitions are being disposed of by this common order, as the background of both the cases is the same.

2. The Petitioners are residents of Kaikaluru in Krishna District. Statedly they are agriculturists. Feeling aggrieved by the proceedings of the Tahsildar, Kaikaluru, directing resumption of the land in their possession in purported exercise of the powers u/s 4(1)(a) of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (the Act), they filed these writ petitions. Initially, by order dated 28.2.2008, both the writ petitions were disposed of, giving liberty to Petitioners to prefer appeal u/s 4A(1) of the Act. Subsequently, review petitions by Petitioners were filed and that is how writ petitions are set down for hearing again.

3. The Petitioner in W.P. No. 628 of 2008 was assigned land admeasuring Acs.2.11 in S. Nos. 67/2A, 3A and 4A situated at Kaikaluru, vide D-Form patta L.D. No. 386 of 1393 Fasli, dated 22.6.1983. The Petitioner allegedly in possession and has been cultivating the land. The Tahsildar - third Respondent; issued impugned order dated 06.10.2007, which is to the effect that during

verification, it was found that subject land was assigned to somebody and that Petitioner was found to be in possession of the land having purchased the same in contravention of Section 3(1) of the Act and, therefore, the land has to be resumed, after allowing the occupant to remove the crop raised on the land.

4. The Petitioner in W.P. No. 650 of 2008 was assigned land admeasuring Acs.2.51 in S. Nos. 66/1A, 2 and 3 situated at Kaikaluru, vide D-Form patta L.D. No. 385 of 1393 Fasli, dated 22.6.1983. The Petitioner allegedly in possession and has been cultivating the land. The Tahsildar - third Respondent; passed similar orders on 06.10.2007, ordering resumption of the land.

5. It may be noted that according to Petitioners, assignments were made on payment of market value and, therefore, the Tahsildar has no jurisdiction to exercise powers u/s 4 of the Act, as it is not an assigned land within the meaning of Section 2(1) of the Act.

6. Separate counter affidavits are filed opposing the writ petitions. They are in similar lines. In paragraph 2 of the counter affidavit, it is stated as under:

The Photostat copy of patta is a bogus one for the following reasons.

(i) There is no office copy of patta available in this office.

(ii) The signature of the then Tahsildar on the Photostat copy of the patta enclosed to the writ petition does not tally with the signature of the Tahsildar worked in this Taluk. The specimen signatures of the then Tahsildar is enclosed to prove this fact.

(iii) On the Photostat copy of the patta the stamp of the Mandal Revenue Officer, Kaikalur is found. In fact the Mandal system has not come into force on the date of issue of so-called patta.

(iv) The lands stated to have assigned in favour of writ Petitioner during Fasli 1393 (the year 1983) are still stand classified in Revenue Records as Assessed Waste Dry lands. If at all the lands were assigned in favour of the Petitioner changes would have been definitely effected in the revenue records as patta lands. Further the writ Petitioner had never approached this office producing the patta to carry out necessary changes in the revenue records.

7. Petitioners have not filed reply affidavits denying the allegations. Be that as it is, the Tahsildar initiated action under the provisions of the Act on the premise that the Petitioners purchased the lands assigned to some others. If that be so, the counter affidavit altogether takes different stand. Further, a perusal of the impugned order in both the cases would show that the same was not preceded by a show cause notice, which is basic requirement in administrative law as well as under Rule 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, 2007. Even on this ground, the impugned order is liable to be set aside.

8. Accordingly, the impugned orders in both the writ petitions are set aside, giving liberty to Respondents to conduct enquiry and take necessary action. If

the land is assigned to some others and Petitioners purchased the said lands on payment of money, considerations that must weigh with the Respondents must be different. If the Petitioners are in possession of land allegedly by virtue of bogus pattas, which are produced before this Court, it is open to the Tahsildar to conduct enquiry and take necessary action under the provisions of the Andhra Pradesh Land Encroachment Act, 1905, and initiate criminal action against the Petitioners for fabricating false documents.

9. The writ petitions, with the above observations and directions, are accordingly disposed of.