
(2008) 01 AP CK 0031

In the Andhra Pradesh High Court

Case No : Writ Petition No. 1262 of 1998

N. Annapurna and Another

APPELLANT

Vs

District Collector and Others

RESPONDENT

Date of Decision : 17-01-2008

Acts Referred:

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

Civil Procedure Code, 1908 (CPC) — Section 80

Citation : (2008) 2 ALD 357 : (2008) 2 ALT 195

Hon'ble Judges : V. Eswaraiah, J

Bench : Single Bench

Advocate : Mummaneni Srinivasa Rao and M. Sudhirkumar, for the Appellant; Government Pleader for Assignment, for the Respondent

Judgement

V. Eswaraiah, J.—Petitioners seek a writ of mandamus to declare the action of the respondents in seeking to dispossess them on 15.1.1998 and their continued effort to prevent them from continuing to enjoy the buildings and other institutions in Sy. Nos. 1020(3) and 1020(6) of Patnam Village, Thavanampalli Mandal, Chittoor District as illegal and arbitrary and to refrain the respondents from interfering with their rights from running the college and other religious institutions in the buildings constructed by them in the land in question. First petitioner is the Managing Trustee of the second petitioner - Sri Sai Charitable Trust (hereinafter referred to as "trust").

2. Petitioners submit that they are in occupation and enjoyment of the buildings constructed for the use of the trust in Sy. Nos. 1020/3 and 1020/6 admeasuring Ac.2.70 cents and Ac.0.28 cents respectively totalling Ac.2.98 cents situated at Patnam Village, Thavanampalli Mandal, Chittoor District. One Mr. Markandeya Naidu was the absolute owner of an extent of Ac.3.43 cents in Sy. No. 1020/3 of the said village of erstwhile Bangarupalyam Taluk and the said village subsequently became a part of Thavanampalli Mandal. The said Markandeya Naidu gifted the said property to his sister - Bharathi under a registered

settlement deed dated 4.3.1976; thereafter she was in possession of the said property until she leased out the said property in favour of the first petitioner vide registered lease deed dated 31.3.1988 for period of 60 years. Thus, it is stated that the first petitioner came into possession of the entire land which originally belonged to Markandeya Naidu, gifted to his sister -Bharathi. It is further submitted that the Markandeya Naidu purchased the said property under a registered sale deed dated 5.11.1973 executed by one Mr. K. Sivam, S/o. Kolla Krishnama Naidu.

Petitioners further submit that a trust was created on 2.4.1988 and the first petitioner being one of the trustees permitted the trust to takeover the land for achieving the objects of constructing buildings for educational institutions. The entire land i.e. Ac.3.43 cents was part of Sy. No. 1020 and by virtue of subdivision the same was subdivided as Sy. Nos. 1020/3 and 1020/6 with extents Ac.2.70 cents and Ac.0.28 cents respectively. The said Bharathi also executed a Power of Attorney in favour of the first petitioner in 1991. While so, when the District Collector passed resumption orders in Roc. No. B2/10708/97 dated 19.8.1997 directing the Mandal Revenue Officer to takeover the possession of the said land, the first petitioner filed W.P. No. 31673 of 1997 and the same was disposed on 28.11.1997 directing the respondents herein not to evict the first petitioner unless notice under the appropriate enactment is issued and the explanation is called. After explanation is submitted the respondents were directed to pass orders and communicate the same to the petitioners. Till the said exercise is done, it was directed not to dispossess the first petitioner nor demolish the existing structures. They further submit that when the first petitioner was hospitalized in the second week of January 1998 the Joint Director, Agriculture Department, Chittoor - fourth respondent claimed to have taken over the possession of the said property on the instructions of the respondents 1 to 3, which was resisted by the first petitioner.

3. It is the case of the petitioners that pursuant to the orders of this Court in W.P. No. 31673 of 1997 dated 28.11.1997 no notice was issued and without following due process of law, it is not open for the respondents to dispossess them. The petitioners further submit that even if the said lands are assigned lands action has to be initiated under the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short "the Act") and even if the said lands are Government lands unless action is initiated under the Andhra Pradesh Land Encroachment Act, 1905, they cannot be evicted. Petitioners claim absolute right, title and ownership over the said property contending that neither it is an assigned land nor Government land, but it is a ryoti land.

4. It is the case of the official respondents 1 to 3 that the said property of an extent of Ac.2.98 cents i.e. Ac.2.70 cents and Ac.0.28 cents respectively in Sy. Nos. 1020/3 and 1020/6, which was carved out from original Block No. 218 of Patnam Village is a Government land and the said land was assigned in favour of Sri A. Kesavulu Naidu vide DKT No. 82-4-1392 dated 28.5.1983 for the purpose

of agriculture. While so, the villagers of Thellagundlapalle H/o. Patnam Village filed a complaint before the Lokayuktha on 27.1.1992 alleging that the said land, which was assigned land, is in illegal possession and enjoyment of the second petitioner -trust. The matter was enquired into by the then MRO and found that the said assigned lands are in possession of the trust. Accordingly, action was initiated under the provisions of the Act and show-cause notices in Roc.A/327/93 dated 30.3.1993 were issued to the assignee as well as the alienee - M.N. Raja Reddy, Managing Trustee of the trust. After following due procedure, the MRO, Thavanampalli cancelled the assignment vide proceedings in Roc.A/327/93 dated 22.4.1993 for violating the condition of grant and the action was duly reported to the Lokayuktha by the Collector in Roc.B2/3363/93 dated 28.4.1993. The said order has become final as neither the assignee nor the purchaser or the second petitioner - trust challenged the said order. The resumption of land was effected by taking over the possession in the presence of M.N. Raja Reddy and the fact of taking over the possession pursuant to the resumption of land together with superstructures thereon was published in the newspaper on 25.8.1997. The said resumed land with superstructures was handed over by the MRO to the fourth respondent vide proceedings of the Collector in Roc.B2/10708/97 dated 25.8.1997, the same was resisted by the petitioners.

5. It is stated that the Managing Trustee - M.N. Raja Reddy set up his wife Smt. M.R. Suseela to file a suit in O.S. No. 175 of 1997 on the file of the Principal Sub-Judge, Chittoor, and the same was ultimately dismissed and he thereafter set up his sister - Annapurna - the first petitioner to file W.P. No. 31673 of 1997, which was disposed at the admission stage with a direction to the respondents not to interfere with the peaceful possession of the petitioners without following due process of law. It is the case of the respondents that the writ petition was disposed at the admission stage on 28.11.1997 and the resumption orders were passed on 24.8.1997 cancelling the DKT Patta dated 22.4.1993 was not at all questioned. The resumed land was handed in favour of the fourth respondent vide proceedings dated 25.8.1997. Thus, it is the case of the respondents that the said land is a Government land and assigned in favour of Kesavulu Naidu in DKT No. 82/4/1392 dated 28.5.1983 and for alienation of the said land in favour of the trust, the said land was resumed.

6. It is stated that Kesavulu Naidu is an Ex-serviceman, who was assigned the land as he was a landless poor, but he alienated the said land in favour of the second petitioner trust and the trustees are 1. M.N. Raja Reddy, 2. N. Annapoorna, 3. M.R. Suseela W/o. M.N. Raja Reddy and 4. P.V. Sai Prasad S/o. Dr. Venkatappa and the trust has constructed buildings for running of the school, college, kalyana mantapam, Shiridi Sai Temple and guest house. As the assigned land was alienated, on a complaint made by the villagers, the resumption proceedings have been initiated and the land was resumed. Thereafter, the said Raja Reddy created fictitious DKT Patta in the name of his wife - Suseela vide DKT No. 354-1402 dated 12.10.1992 and accordingly submitted explanation on 5.4.1993 to the resumption notice dated 30.3.1993 stating that the said land

was neither donated nor alienated by Kesavulu Naidu and based on the fictitious assignment, the patta was implemented in the village accounts and on the complaint, the entries made were cancelled. In fact, Raja Reddy applied for alienation of the land to the trust and the same was rejected by the District Collector in his proceedings Roc.B2/10703/ 1997 dated 19.3.1997. In fact, Smt. Suseela W/o. Raja Reddy filed a suit in O.S. No. 175/ 1997, which was rejected ultimately and thereafter the writ petition filed by the first petitioner was disposed of. It is stated that the orders in the writ petition were received on 11.12.1997 i.e., after the resumption orders were passed on 22.4.1993, thereafter allotting the same to the fourth respondent vide order dated 25.8.1997 and the lands were handed over to the fourth respondent on 26.8.1997. As the petitioners trespassed into the said land with the help of the students a complaint was lodged and criminal case was registered. The first petitioner being the Managing Trustee of the trust, proceedings were initiated against the trust represented by the Managing Trustee - M.R. Raja Reddy and the first petitioner being the sister of Raja Reddy, she is not entitled for any relief.

7. The fourth respondent also filed a counter stating that pursuant to the proceedings of the District Collector dated 25.8.1997 the said land including other lands were handed over to them on 26.8.1997 i.e., prior to passing of the interim order by this Court in WPMP No. 1414 of 1998 in WP No. 1262 of 1998 on 21.1.1998, in the presence of M.N. Raja Reddy - Managing Trustee of the trust. Though the possession was handed over to them on 26.8.1997 the Managing Trustees and the students have been interfering with their possession and therefore, the police complaint has been lodged on 2.9.1997 and 8.2.1998 and a case in Cr. No. 101 of 1998 was registered. Additional counter-affidavit and reply have been filed.

8. In the reply affidavit it is stated by the petitioners that the said Kesavulu Naidu, in whose favour the said land is said to have been assigned, is none other than the husband of Smt. Bharathi in whose favour Markandeya Naidu the original owner executed the settlement deed, therefore, the contention of the Government that Kesavulu Naidu was assignee under the Darkhast Patta dated 28.5.1983 is incorrect. Kesavulu Naidu never admitted about the said assignment nor did his wife Bharathi admit the same. Even assuming that Kesavulu Naidu was assigned the said land, there is no condition imposing prohibition not to alienate the said land. It was not an assigned land in favour of the landless poor. If the said land was granted by mistake without knowing that it was owned by the wife of Kesavulu Naidu, such assignment cannot have any effect on the title, possession and right of Smt. Bharathi. Even if the assignment in favour of Kesavulu Naidu is a valid assignment the said land cannot be resumed at this length of time without resorting to filing declaration of title and recovery of possession. It is stated that the said land was leased out by Smt. Bharathi in favour of Annapurna - first petitioner and she being the trustee of the trust permitted the trust to develop the said land, therefore, it is incorrect to state that Kesavulu Naidu alienated the said land in favour of the trust.

9. With regard to the contention that the notice of resuming the said land was Served on the assignee and M.N. Raja Reddy, it is stated that the said notice was not served on the alienee - trust and therefore, service of notice on M.N. Raja Reddy is not a legal requirement. It is stated that the statement made by M.N. Raja Reddy does not have any relevance for consideration or adjudication with regard to the dispute involved in the matter. Therefore, the contention that the petitioners have concealed about the earlier resumption orders under Act 9 of 1977 by the MRO is incorrect and denied. There are no resumption proceedings as alleged in the counter. The so-called fictitious patta in favour of Smt. Suseela W/o. M.N. Raja Reddy is irrelevant as the petitioners are claiming title based on the registered document executed by the original owner. Smt. Suseela never claimed any interest on the ground of assignment; therefore, the said aspects are not relevant. It is stated that the assignment itself in favour of Kesavulu Naidu is illegal and therefore the resumption proceedings initiated against the alleged assignee and Raja Reddy - Managing Trustee of the trust are of no consequence. The filing of the suit by Smt. Suseela for injunction restraining the revenue authorities from interfering with the possession and its dismissal for want of notice u/s 80 of the CPC is of no consequence. Therefore, the petitioners cannot in any way be precluded from seeking any relief against the illegal action of the respondents. It is stated that the said land is purely patta land and the petitioners are in possession and enjoyment of the said land for over a period of 30 years and acquired title by adverse possession. Thus, it is the contention of the petitioners that the proceedings under the Act are illegal and have no application in respect of the land in question as it is not an assigned land but it is a patta land.

The questions that arise for consideration:

1. Whether the said land is a Government land and assigned in favour of Kesavulu Naidu vide DKT No. 82/ 4/1392 dated 28.5.1983?
2. Whether the said assigned land was resumed by the MRO vide proceedings Roc.A/327/93 dated 22.4.1993?

If these questions are held in favour of the petitioners they are entitled for the relief claimed in this writ petition otherwise all other contentions raised by the petitioners with regard to their possession even after the resumption orders and claim of independent title are of no consequence.

10. It is the case of the petitioners that the said land originally belonged to one K. Sivam, pattedar of the said land, and he sold the land to an extent of Ac.3.43 cents in Sy. No. 1020 vide registered sale deed dated 5.11.1973 in favour of Markandeya Naidu, who gifted the said land in favour of his sister - Bharathi under registered settlement deed dated 4.3.1976 and the said Bharathi leased out the said land in question in favour of the trustees of the trust under registered deed dated 31.8.1983. The trust constructed buildings, religious temples, kalyana mantapam in the said land and educational institutions are

being run by the trust. Thus, it is contended that the said land is not an assigned land and the action of the District Collector seeking to dispose them was questioned in W.P. No. 31673 of 1997 and the same was disposed on 28.11.1997 and contrary to the said judgment, the respondents resorted to deliver the possession of the said land in favour of the fourth respondent on 15.1.1998; therefore, the said action has been questioned in the present writ petition.

11. This Court while admitting the writ petition on 21.1.1998 granted interim direction directing the respondents not to interfere with the possession and enjoyment of the buildings and other institutions, run by the second petitioner trust in the land in Sy. Nos. 1020/3 and 1020/6 of Patnam Village, Thavanampalli Mandal, Chittoor District till further orders without recourse to law and without insisting necessary proceedings under the enabling statute as directed by this Court in its final order dated 28.11.1997 in W.P. No. 31673 of 1998. It is stated that the said land is not a Government land and the mistaken assignment in favour of Kesavulu Naidu for agricultural purpose is of no consequence and the proceedings initiated thereon on the complaint and resumption of the said land cancelling the DKT Patta are also of no consequence. The earlier writ petition was disposed of and a review petition has been filed and the same is pending and the petitioners are in continuous possession and enjoyment of the said land as absolute owners and it is not an assigned land.

12. I have heard the arguments of Sri M.R.K. Chowdary learned Counsel appearing for the petitioners and learned Government Pleader for Assignment appearing on behalf of the respondents 1 to 4, elaborately, perused the writ papers and records.

The Service and Resettlement Register of the Village of Patnam, No. 62, Chittoor Taluk, Chittoor District goes to show that Re-Survey No. 218 of old Sy. No. 218-2 is a Government un-assessed poramboke land total extent being Ac.948.62 cents. The total extent of Ac.948.62 cents of Block No. 218 was divided and assigned Sy. No. 1020 and the same was sub-divided into Sy. No. 1020/1 to 10. The extent of Sy. Nos. 1020/3 and 1020/6 is Ac.2.70 cents and Ac.0.28 cents respectively. The entire land in Sy. No. 1020 is a Government land and they are not ryoti lands/settlement lands. The Village Account Book of Patnam Village goes to show that the land of an extent of Ac.2.70 cents in Sy. No. 1020/3 is under the occupation of second petitioner-trust and it is an assigned land vide Darkhast Patta No. 82/4/92 dated 25.5.1983 and so also an extent of Ac.0.28 cents of land in Sy. No. 1020/6 is also Darkhast Patta in which the school management is in occupation of the said land.

13. The District Collector vide his letter Roc.B2/3363/93 dated 16.3.1993 after perusing the report of the Mandal Revenue Officer, requested him to take necessary action for cancellation of the assignment made in favour of Kesavulu Naidu in respect of the said land in question and resume the same to the Government along with structures as per the conditions 1,2, 19 and 20 of D Form patta and send a report. Accordingly the MRO issued a notice in Roc.A.327/93

dated 30.3.1993 stating that the said land in Sy. No. 1020/1 to 6 of various extents are assigned lands in favour of different persons and insofar as the land in Sy. Nos. 1020/3 and 1020/6 i.e. Ac.2.70 cents and Ac.0.28 cents respectively, assigned in favour of Kesavulu Naidu, is in possession of Sri Shiridi Sai Charitable Trust, Chittoor for which Dr. M.N. Raja Reddy is the Managing Trustee. Accordingly, the lands assigned in favour of Kesavulu Naidu, K. Neelakantam and E. Manohar Naidu by the then Tahsildar for agricultural purpose are sought to be resumed for violation of conditions of grant and requested to submit explanation within seven days from the date of receipt of said notice. A copy of which was also marked to Dr. M.N. Raja Reddy.

Dr. M.N. Raja Reddy filed explanation on 5.4.1993 stating that the trust is a non-profit making non-religious registered body formed with the members of the public willing to participate in the development of education in addition to the welfare of the physically handicapped and mentally retarded persons. The trust or the Managing Trustee has not purchased or taken possession of the said land and A. Kesavulu Naidu also joined in the trust, on 27.7.1988 and his membership number being 123 and his wife and his relatives also joined the trust. He had Ac.2.70 cents of land in Sy. No. 1020/3 and Ac.0.28 cents of land in Sy. No. 1020/6 and he raised mango garden and other crops in Sy. No. 1020/3 and constructed school building in Sy. No. 1020/6 with public contribution. He neither donated nor sold the said land and there is no alienation of the said land and the said land is in practical possession of A. Kesavulu Naidu. Similarly, Mr. Neelakantam and other alleged assignees are also members. It is stated Dr. M.N. Raja Reddy purchased the other land from E. Manohar Naidu and the revenue records by mistake shows that it is a DKT land.

Kesavulu Naidu the original assignee also submitted a reply on 3.4.1993 admitting that the said land of an extent Ac.2.70 cents and Ac.0.28 cents in Sy. Nos. 1020/3 and 1020/6 is the assigned land by the then Tahsildar of Bangarupalyam vide Ref. No. 82/4/13/1392 dated 28.3.1983 and from the date of assignment he is in possession of the said assigned land and he has been growing mango and guava trees apart from groundnuts. He joined the trust as a life member vide his Application No. 123 dated 27.7.1988 and the trust is working for public purpose and it has constructed two community halls for Muslims and Hindus. He along with his wife and brother-in-law joined in the trust. The said land is not in possession of Dr. M.N. Raja Reddy and the buildings constructed by them for running school are in the name of the trust in Sy. No. 1020/6 in an extent of Ac.0.28 cents. The said assigned land given to him has not been transferred in favour of any other person and his son is also studying in the said school. The other lands in which the buildings are constructed are not in his possession and he is a part and parcel of the trust.

15. After considering the explanations, the MRO passed resumption orders on 22.4.1993 in Roc.A.327/93 stating that the said lands are assigned in favour of Kesavulu Naidu for agricultural purpose and Kesavulu Naidu being the life

member of the trust consented for construction of high school, junior college and other buildings, which are run by the trust. The said land was assigned for agricultural purpose but he has let out the lands in favour of the trust for construction of buildings. The contention of the Kesavulu Naidu in his explanation that the said lands are assigned lands is correct but the contention that he is growing mango, coconut and guava trees in an extent of Ac.2.70 cents in Sy. No. 1020/3, is utterly false as the trust constructed buildings etc. as is evident on the ground. The Managing Trustee of the trust - Dr. M.N. Raja Reddy in his reply stated that the said lands are not sold in favour of the trust and the contention that the said lands are not assigned lands is incorrect, as the assignee himself did not dispute about the assignment of the said lands. As the condition imposed in the DKT Patta has been violated, the assignment of the lands was cancelled for breach of the condition No. 1 of DKT Patta and also for contravention of Sub-section (1) of Section 3 of the Act and accordingly ordered resumption of the lands for assignment of the same to the landless poor persons. Similar reasoned orders were also passed insofar as other assigned lands in favour of E. Manohar Naidu and Neelakantam Naidu by order dated 22.4.1993. After passing resumption orders in respect of the lands in Sy.No. 1020/1 to 6 the MRO, Thavanampalli Mandal reported the same to the District Collector. The said resumption orders have not been questioned either by Dr. MM. Raja Reddy or by the assignee Kesavulu Naidu and thus, the said orders have become final. Thereafter, the Revenue Divisional Officer by his order dated 1.6.1997 in Roc.D/2022/97 placed the Village Administrative Officer under suspension for making false entries under 10(1) account about entering of the name of Dr. MM Raja Reddy in respect of the said lands in Sy.No.214/1 to 3 as well as the land in Sy. No. 1020/3 to 6. The petitioners are not disputing about the existence, validity or correctness of the said cancellation orders of the assignment vide proceedings dated 22.4.1993. But only contend that the said lands are not assigned land, therefore, passing of the said orders are of no consequence to consider the claim of the petitioners. After passing resumption orders the said lands have been taken possession on 24.8.1997 in the presence of panchas wherein it was clearly observed that the property constructed by the trust exists in the said lands.

The statement of Dr. M.N. Raja Reddy was also recorded on 24.8.1997 about the details of the land, superstructures existing on the ground and the said fact of taking over possession was also published in the local edition of the daily newspaper dated 25.8.1997. It was also published by way of torn torn on 24.8.1997 about taking over the possession of the same. Thereafter, the District Collector vide proceedings in Roc.B2/ 10708/97 dated 25.8.1997 passed orders stating that the various extents of lands in Sy. Nos. 1020/1 to 6, in which superstructures are existing, resumed by the Government are directed to be handed over in favour of the fourth respondent. In fact, Kesavulu Naidu filed a suit in O.S. No. 121 of 1993 on the file of the Principal District Munsif, Chittoor for grant of permanent injunction restraining the District Collector, Chittoor and

Mandal Revenue Officer, Thavanampalli from interfering with his peaceful possession and enjoyment of the plaint schedule property in the said survey numbers.

16. Though the original assignee Kesavulu Naidu did not dispute about the nature of the land that the said lands are assigned lands, but the petitioners" dispute that the said lands are not assigned lands. To resolve the controversy the question that is to be considered as to whether the said lands are assigned lands or not. It is to be noticed that A. Kesavulu Naidu filed an application for assignment of the land of Ac.2.70 cents in Sy. No. 1020/3 and Ac.0.28 cents in Sy. No. 1020/6 the total extent of is Ac.2.98 cents. In the said application it is clearly stated that he is an Ex-Serviceman and the said land is a communal poramboke available for assignment. The said application has been enquired into and the Revenue Inspector of the village made a remark that Kesavulu Naidu/ applicant is a landless poor, therefore, he may be assigned the land subject to leaving minimum cart track in width 15 links. After conducting enquiry on the application filed by Kesavulu Naidu, D Form Patta in DKT. No. 82/4/1392 dated 28.5.1983 was granted earmarking the location in the map and according to condition No. 1, the assignee shall alone cultivate the said land personally and it can be inherited but not alienated in any manner. The assigned land shall be brought under cultivation within three years. The land was assigned subject to the condition that he shall leave 10 links width for cart tract and 10 links for canal.

17. From a perusal of the records, as reflected above, I am of the opinion that the land in question is not a ryoti land but it is a Government poramboke land assigned in favour of Kesavulu Naidu and other part of the land in the same survey number was also assigned. After issuing notice and after following due process of law under the provisions of the Act the said land in question was resumed to the Government by cancelling the assignment patta in exercise of the powers vested in the competent authority for violation of condition No. 1 of the patta and as well as for violation of Sub-section (1) of Section 3 of the Act, therefore, I am of the opinion that the contention of the petitioners that the said land is not an assigned land in favour of Kesavulu Naidu is not correct and the fact of assignment in favour of Kesavulu Naidu is supported by the records produced before this Court. There is no dispute that the Block 218 of A Register relating to No. 62 of Patnam Village consisting of Ac.948.62 cents and the Survey and Resettlement Register goes to show that the Sy. No. 1020 is part of the said block wherein it is clearly mentioned that it is a poramboke land. As against the said records the petitioners failed to rebut the same and have not filed any document in support of their contention to show that it is a ryoti land but not Government land.

18. The contention that there is no condition in the assignment prohibiting alienation is also not correct, as a matter of fact, though Kesavulu Naidu is an Ex-Serviceman the said land was not assigned under the quota of Ex-Serviceman,

but the application and the assignment patta goes to show that the said land has been assigned considering that he is a landless poor but not under quota of Ex-Serviceman. No other proceedings show that the said application has been processed through the concerned department for assignment of the land in favour of Ex-Serviceman. Even assuming that it is a land assigned in favour of Ex-Serviceman, the said land is not alienable within a period of ten years. In the instant case, the nature of the land has been changed and the said land is not assigned for the purpose of using it for non-agricultural purpose. Admittedly, the said land has been used for non-agricultural purpose by the second petitioner trust. Though Kesavulu Naidu is a member of the trust, the fact remains that the trust is found in possession of the land changing its nature by constructing buildings for school, college, kalyana mantapam etc., therefore, it is a clear violation of Sub-section (1) of Section 3 of the Act. As per the aims and objects of the Act the said lands are non-alienable in any manner and there is a permanent prohibition on alienation of the lands assigned in favour of landless poor. Admittedly, in the instant case, the land has been assigned in favour of Kesavulu Naidu considering him as landless poor person, therefore, the provisions of the Act do apply to the facts of the case as the said land was assigned in favour of landless poor. Under Sub-section (1) of Section 3 of the Act the land assigned in favour of the landless poor for the purpose of cultivating are not transferable or alienable. Even if there is any transfer of the said land under any law or deed such deed or document relating to such land shall be deemed that the land has not been transferred and accordingly no right, title in such assignment shall vest in any person acquiring the land by such transfer. Therefore, I am of the opinion that the utilization of the said land for other than agricultural purpose by the trust is in violation of Sub-section (1) of Section 3 of the Act apart from the clear violation of condition No. 1 of DKT Patta.

19. Insofar as the contention of the petitioners that they have acquired title by adverse possession, I am of the opinion that there is no acceptable evidence that they are in continuous possession and enjoyment of the said land for over a period of 30 years. In respect of the assigned lands, the question of acquiring any title does not arise as the Act has been legislated to protect the assigned lands assigned in favour of landless poor as in the case of the legislation enacted under the Andhra Pradesh Land Transfer Regulations, prohibiting transfer of assigned lands permanently. To consider the provisions of the Act whether there is any violation of the Act in the respect of the assigned land and if the land is found in possession of any person other than the original assignee or his legal heirs, it shall be presumed, until contrary is proved, that there is contravention of Sub-section (1) of Section 3 of the Act. Admittedly, the trust is found in possession of the said land, therefore, it shall be presumed that there is violation of Sub-section (1) of Section 3 of the Act as contemplated u/s 4(3) of the Act. The assignment was made only in August 1983 and the resumption was made within 10 years i.e., on 22.4.1993 and the violation of Sub-section (1) of Section 3 of the Act is also well within 10 years i.e., immediately after the assignment.

Therefore, it cannot be said there is no violation of the provisions of Sub-section (1) of Section 3 of the Act and condition No. 1 of DKT Patta. I have elaborately dealt with the nature of the assigned lands permanently prohibiting alienation of assigned lands assigned in favour of the landless poor in W.P. No. 2985 of 2003 and batch dated 19.12.2007.

20. In view of the aforesaid facts and circumstances and the records placed before this Court, I have no doubt about the nature of the land that it is a Government land assigned in favour of Kesavulu Naidu, who violated the conditions of assignment under the provisions of the Act, therefore, DKT Patta has been rightly cancelled resuming the land. Even if the petitioners are in possession after resumption orders are being passed, their possession is illegal and unauthorized and they are not entitled for any relief in this writ petition, as the said resumption orders have not been questioned either by the petitioners or by the original assignee or by the erstwhile Managing Trustee of the trust. In view of the aforesaid facts and circumstances of the case, I do not see any merits in the writ petition.

The writ petition is accordingly dismissed. There shall be no order as to costs.