
(2013) 10 AP CK 0093

In the Andhra Pradesh High Court

Case No : Writ Petition No. 30178 of 2013

Thatikayala Uppalaiah

APPELLANT

Vs

The State of A.P. and Others

RESPONDENT

Date of Decision : 22-10-2013

Acts Referred:

Citation : (2014) 1 ALD 342 : (2014) 1 ALT 634 : (2014) ALT(Rev) 97

Hon'ble Judges : C.V. Nagarjuna Reddy, J

Bench : Single Bench

Advocate : M.N. Narasimha Reddy, for the Appellant;

Final Decision : Allowed

Judgement

C.V. Nagarjuna Reddy, J.—This writ petition is filed for a mandamus to set aside notice in R.C. No. B/12669/2009 dated 20.09.2013 of respondent No. 4, whereby he has directed the petitioner as well as respondent No. 5 not to enter the lands in survey Nos. 192/51, 192/52 and 199/49 of Timmapur Village, Zaffergadh Mandal. Against the order of respondent No. 4 entering the name of respondent No. 5 in the record of rights in respect of lands admeasuring Ac.0.38 guntas in survey No. 192/51 and Ac.1.00 in survey No. 192/52 of Timmapur Village, the petitioner filed an appeal u/s 166-B of the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 Fasli before respondent No. 3. The said appeal was treated as an appeal u/s 5(5) of the Andhra Pradesh Rights in Land and Pattadar Passbooks Act, 1971 by respondent No. 3 and allowed, by order dated 23.06.2012, directing to delete the name of respondent No. 5 and restore the name of the petitioner in the record of rights. Questioning the said order, respondent No. 5 filed a revision petition before respondent No. 2. Respondent No. 2, by order dated 14.08.2013, has set aside the order of respondent No. 3 with a finding that the verification of the records revealed that the lands in question are Government lands and therefore, respondent No. 3 ought not to have directed that the name of the petitioner shall be entered in the record of rights. Respondent No. 2 gave a further direction that respondent No. 4 shall initiate appropriate action either

under the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 if the land is found to be an assigned land or under the Andhra Pradesh Land Encroachment Act, 1905, if there is no such assignment. Thereafter, respondent No. 4 has issued the impugned notice. A perusal of the said notice shows that the same was issued at the instance of respondent No. 2, who evidently addressed a letter on 14.08.2013. In the said notice, respondent No. 4 has directed the petitioner as well as respondent No. 5 not to enter the lands in survey Nos. 192/51 and 192/52 and 192/49 of Timmapur Village and raise crops therein.

2. The learned Assistant Government Pleader for Revenue (Telangana Area) is unable to state as to under what provision of law, the impugned notice was issued by respondent No. 4.

3. While dealing with the disputes involving the rights of the private individuals vis-?-vis the State, respondent No. 4 is expected to act strictly in accordance with law. If the land is found to be the Government land, respondent No. 4 is empowered under the Andhra Pradesh Land Encroachment Act, 1905, for eviction of the person in unauthorized occupation of the land and if the land is found to be an assigned land and that the same was in possession of any person other than the assignee, respondent No. 4 is empowered to initiate proceedings under the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977. Unless the proceedings are initiated and orders are passed, no order in the nature of an interim injunction can be passed by respondent No. 4. Such a power is vested only in the civil Court.

4. In this view of the matter, without expressing any opinion on the illegality or otherwise of the order dated 14.08.2013 passed by respondent No. 2, the impugned notice dated 20.9.2013 of respondent No. 4 is set aside. The Writ Petition is accordingly allowed to the extent indicated above. As a sequel to allowing the writ petition, W.P.M.P. No. 37468 of 2013 filed by the petitioner for interim relief shall stand disposed of as infructuous.