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Andhra Pradesh High Court

Case No: Appeal Suit No''s. 878 and 884 of 2012 and W.P. No. 16228 of 2009

Agri Gold Farm Estate India Pvt. Ltd.		APPELLANT
	Vs	
The State of Andhra Pradesh and Others		RESPONDENT

Date of Decision: April 3, 2013

Acts Referred:

- Andhra Pradesh Assigned Lands (Prohibition of Transfer) Act, 1977 - Section 3

Citation: (2013) 4 ALD 596 : (2013) 5 ALT 276

Hon'ble Judges: L. Narasimha Reddy, J; K.G. Shankar, J

Bench: Division Bench

Advocate: S. Srinivas Reddy, for the Appellant;

Judgement

L. Narasimha Reddy, J.

These two appeals and the writ petition are filed by the same company and are in relation to the same land. Hence they are disposed of through a common Judgment. The appellant is a Private Limited Company, engaged in various activities, including business in real estate. It purchased an extent of about 290 acres of land in Jalli Pullala Cheruvu Village, Racharla Mandal, Prakasham District, from various individuals. The respondents i.e. the Authorities of the Revenue Department, are said to have made an attempt to interfere with the possession of the appellant over the land stating that the land was assigned in nature and any purchase made by the appellant is violative of the provisions of the A.P. Assigned Lands (Prohibition of transfers) Act, 1977 (for short " the Act ").

2. Alleging that the respondents are trying to interfere with the possession and enjoyment of the land, the appellant approached this Court by filing W.P. No. 4987 of 2005 with a prayer to direct the respondents to recognise their rights and title over the land. The Writ Petition was disposed of on 03-07-2008 leaving it open to the

petitioner to approach the civil Court to establish their rights and title. It was also mentioned that if the respondents are of the opinion that the lands in question are assigned in nature, the proceedings under the Act are to be initiated.

3. Acting on the observation made by this Court in W.P. No. 4987 of 2005, the appellant filed O.S. No. 109 of 2008 in respect of Ac. 134-54 cents and O.S. No. 110 of 2008 in respect of Ac. 154-92 cents of land in the Court of VI Additional District Judge, Prakasham at Markapur, for the relief of declaration of title and perpetual injunction. It was pleaded that the lands were purchased after verification of the title and on being satisfied that the vendors have saleable interest in the property and that the respondents are not at all justified in questioning the title or making an attempt to interfere with the possession.

4. The respondents filed written statement, opposing the suits. The trial Court dismissed the suits through a common judgment dated 09-04-2012. The appeals are filed against the decrees passed in the two suits.

5. During the pendency of the suits, the Revenue Divisional Officer, Markapur passed an order dated 16-02-2009 directing the Tahsildar, Racharla Mandal, to initiate proceedings under the Act against the appellant in respect of land in question. Challenging the said order, the appellant filed W.P. No. 16228 of 2009. Reference was also made to the possession of the appellant over the land and the nature of protection to be given there to.

6. Heard Sri S. Srinivas Reddy, learned counsel for the appellant, and learned Government Pleader for appeals, for the respondents.

7. The suits were filed for the relief of declaration of title and perpetual injunction. On the basis of the pleadings before it, the trial Court framed the following issues in both the suits:-

O.S. No. 109 of 2008

1. Whether the plaintiff is absolute owner of suit schedule property and entitled for permanent injunction as prayed?

2. Whether the plaint schedule lands were cultivated by the villagers of J.P.Cheruvu village as Sivoijamadars and pattas were issued by the Government?

3. Whether the plaintiff has purchased the schedule mentioned property under registered sale deed fro the pattadars and successors of sivoijadars of land owners and whether the said lands are forest lands as per RSR?

4. Whether the Hon''ble High Court of A.P. Hyderabad in Writ Petition No. 4987 of 2005 directed not to evict the plaintiff without following due process of law?

5. To what relief?

O.S. No. 110 of 2008

1. Whether the plaintiff is entitled for declaration and consequential injunction as prayed?

2. To what relief?

8. On behalf of the appellant, PWs.1 and 2 were examined and Exs.A.1 to A.40 were filed. Exs.X.1 to X.5 were also taken on record. On behalf of the respondents, RW.1 was examined and Ex.B.1 to B.54 were filed.

9. The suits were dismissed, and in the appeals, the only point that arises for consideration is as to "Whether the appellant is entitled to seek relief of declaration of title in the teeth of the provisions of the Act?".

10. It may be true that the appellant purchased the lands being under the impression that the vendors have saleable interest. However, if it emerges that the lands were assigned to their vendors at any point of time, different picture altogether emerges. The Act prohibits the transfer of lands assigned to the landless poor. Prohibition operates, if certain conditions mentioned in the relevant provisions exist. Certain exceptions are also carved out. The question as to whether the exceptions get attracted to a particular transaction can be considered, if only the proceedings u/s 3 of the Act are initiated. Further, the Act provides series of remedies in the form of appeals and revisions. The appellant can be said to have had cause of action, if only when the proceedings under the Act are initiated against him. As long as the contention of respondents that the land in question was assigned in nature, the occasion for a civil Court to declare the ownership thereof, in favour of private individuals, does not arise.

11. The respondents have already taken a decision to initiate the proceedings under the Act and the order passed by the Revenue Divisional Officer was assailed in the Writ Petition. There again, the order passed by the Revenue Divisional Officer did nothing more than require the Tahsildar, the competent authority, to initiate necessary proceedings. The Act and the Rules made thereunder mandate that before any assigned land is resumed, the Government on finding that alienation thereof is contrary to the provisions of the Act, notice must be issued not only to the assignee, but also to the purchaser. The appellant is entitled to be put on notice, before any proceedings are initiated. Since the respondents have already decided to initiate proceedings, the matter must be left to be dealt with under the provisions of the Act and Rules made thereunder. It has already been observed that the question of declaring the appellant as owner of suit schedule property as long as the contention of the respondents that it is assigned land remains; does not arise.

12. Hence, the Appeal Suits are dismissed with an observation that it shall be open to the appellant to put forward their contentions and assert their rights in the proceedings that may be initiated by the respondents under the A.P. Assigned lands (Prohibition of transfers) Act, 1977.

13. W.P. No. 16228 of 2009 is disposed of, directing that whenever the Tahsildar intends to initiate proceedings under the Act, vis-�-vis the land in question, he shall issue notice to the appellant and pass appropriate orders, after taking into account the contentions that may be advanced by the appellant. It is also directed that none of the observations made by the trial Court in the judgments in O.S. Nos. 109 and 110 of 2008, shall be taken as final. The miscellaneous petitions filed in these Appeal Suits and Writ Petition shall stand disposed of. There shall be no order as to costs.