

HON'BLE THE CHIEF JUSTICE SHRI G.S.SINGHVI
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Petition No. 21567 of 2007

Between:

Mekala Krishnaiah

...Petitioner

And

The District Collector,
Nellore District & others

...Respondents

: O R D E R :

Counsel for the petitioner : Shri V. Narayana Reddy

October 11, 2007

Per G.S. Singhvi, CJ

The petitioner, who is practising as an advocate at Nellore and is also Vice President, Human Rights Forum, Nellore, has filed this petition as a piece of public interest litigation for grant of a declaration that failure of the respondents to restore Ac.3. 29 cents of land comprised in Survey Nos. 824-1, 824-3, 824-4 and 824-5 of Regadichilka village, Kodavaluru Mandal, Nellore District, to the original assignees or utilize the same for public purpose is violative of the provisions of the Andhra Pradesh Assigned Lands (Prohibition of Transfer) Act, 1977 (for short 'the Act') and the rules made thereunder. He has also prayed that during the pendency of the writ petition, respondents be directed to dispose of his representation/legal notice dated 27.8.2007.

In affidavit filed by him, the petitioner has described himself as a champion of human rights and social causes and averred that in view of acquisition of land for establishing SHAR Centre at Sriharikota in Nellore District, the Government gave alternative land to the land owners for rehabilitation and D-Form pattas were issued in 1970 in favour of Motreddy Peda Munuswamy Reddy, Kaliveti Krishnaiah and Nataru Ragapa Reddy, but in complete violation of the provisions of the Act, the Village Administrative Officer purchased the subject land and sold away the same to Essenn L.P.G. Bottling Private Limited (hereinafter described as 'the company'). He has further averred that the bottling company had started work to establish L.P.G. unit despite refusal of the District Collector to give permission. According to the petitioner, the sale of land allotted to Motreddy Peda Munuswamy Reddy and others is ultra vires Section 3 of the Act and, therefore, the work relating to installation of L.P.G. bottling unit is liable to be stopped.

Sri V. Narayana Reddy, learned counsel for the petitioner, referred to Section 3 of the Act, legal notice dated 27.8.2007 sent on behalf of the petitioner to the Mandal Revenue Officer (now Tahsildar), letter dated

8.6.2007 sent by Collector and District Magistrate, Nellore to Revenue Divisional Officer, Kavali and argued that the Court should direct the respondents to take effective steps to prevent the company from establishing the L.P.G. unit. The learned counsel emphasized that the purchase of subject land by the Village Administrative Officer and sale thereof to the company is fraudulent in nature and, therefore, the Court may intervene and direct the respondents to retrieve the land and distribute it to the original assignees.

In our opinion, the writ petition, as it has been constituted, cannot be entertained because the petitioner has not impleaded as party, the company to whom the subject land is said to have been sold by the Village Administrative Officer and without hearing the company, the Court can neither annul the transaction of sale nor a mandamus can be issued to the official respondents to recover the subject land.

Notwithstanding the above conclusion, we have carefully scrutinized the averments contained in the affidavit of the petitioner and the documents filed by him and are satisfied that direction in terms of the prayer made by the petitioner cannot be given. In his letter dated 7.5.2007 sent to District Collector, Nellore, Revenue Divisional Officer, Kavali made a mention of case filed by S.S.S. L.P.G. Bottling Private Limited, who purchased an extent of Ac. 3.29 cents for establishing the unit, and order dated 27.12.1995 passed by the High Court and averred that the land purchased by the company is not assigned either to the Scheduled Caste or Scheduled Tribes, that the subject land was given to the rehabilitants and the same was purchased by the company by registered sale deed. After one month, the District Collector vide his letter dated 8.6.2007 informed the Revenue Divisional Officer that permission is declined to S.S.S. L.P.G., Bottling Company. It is, thus, evident that the district authorities have not been remiss in taking cognizance of the grievance made by the petitioner in the matter of alleged illegal transfer of the land allotted to rehabilitants. Therefore, we see no reason for the Court's interdiction in the matter by assuming that the respondents have failed to

take action on petitioner's complaint or that they are not alive of the need to protect public interest.

It is also apposite to mention that the petitioner has not produced any evidence before the Court that the company has taken steps to establish L.P.G. bottling unit in violation of the directive contained in letter dated 8.6.2007 sent by the Collector. In any case, without hearing the company the Court cannot annul the sale transaction and that too by ignoring the fact that the land was allotted to Motreddy Peda Munuswamy Reddy, Kaliveti Krishnaiah and Nataru Ragapa Reddy as rehabilitants and not as landless poor.

With the above observations, the writ petition is dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

October 11, 2007

Ksld/ams