



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3458]

**TUESDAY, THE TWENTY FIRST DAY OF APRIL
TWO THOUSAND AND TWENTY SIX**

PRESENT

THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA

WRIT PETITION NO: 14988 OF 2021

Between:

1.GOGINENI SURESH, GOGINENI SURESH, S/O. LATE VENKAIAH NAIDU, AGED ABOUT 47 YEARS, OCC CULTIVATION, R/O. PLOT NO.6, D.NO.24-2-422 .R.L.REDDY NAGAR, DARGAMITTA, NELLORE, SPSR NELLORE DISTRICT.

...PETITIONER

AND

1.THE STATE OF ANDHRA PRADESH, THE STATE OF ANDHRA PRADESH, REP. BY ITS PRL. SECRETARY, REVENUE ASSIGNMENT DEPARTMENT, A.P. SECRETARIAT, VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT.

2.THE JOINT COLLECTOR, THE JOINT COLLECTOR, NELLORE, SPSR NELLORE DISTRICT.

3.THE REVENUE DIVISIONAL OFFICER, THE REVENUE DIVISIONAL OFFICER, NELLORE, SPSR NELLORE DISTRICT.

4.THE TAHASILDAR, THE TAHSILDAR RURAL NELLORE, SPSR NELLORE DISTRICT.

5.CHIRUMAVILLA SUBBAMMA, CHIRUMAVILLA SUBBAMMA DIED.

6.MANDALAPU RAJESH DIED, S/O M VENKATESWARULU C/ SK ABID BAU D.NO.C-37 OPP MOSQUE STOVEBEEDI COLONY KOVVUR SPSR NELLORE

7.PODA SWAPNA, W/O P.CHENCHU RAMAIAH, D/O M.VENKATESWARA RAO, AGED ABOUT 35 YEARS, R/O D.NO.27-8-352, NTR NAGAR, NELLORE, SPSR NELLORE DISTRICT.

R7 IS BROUGHT ON RECORD AS L.R OF THE DECEASED RESPONDENT NO.6 AS PER THE COURT ORDER DT.19.09.2024 VIDE ORDERS PASSED IN I.A.NO. 01 OF 2024.

...RESPONDENT(S):

Counsel for the Petitioner: S V Muni Reddy

Counsel for the Respondent(S): GP for Revenue (AP)
Satyanarayana Nimmala

The Court made the following order:

Heard Sri S.V.Muni Reddy, learned counsel for the petitioner and Sri M.Chandra Sekhar, learned Assistant Government Pleader for Revenue appearing for respondent Nos.1 to 4 and Sri Satyanarayana Nimmala, learned counsel appearing for respondent Nos.6 and 7.

2. The instant writ petition is filed challenging the proceedings of the 1st respondent dismissing the revision application filed by the petitioner against the order of the 3rd respondent. The petitioner sought for a consequential, direction to the respondents not to interfere with the possession of the lands of the petitioners.

3. The petitioner claims to be a landless poor person. The 5th respondent, while she was alive, represented to the petitioner that she was the absolute owner of the possession and offered the said land for sale. The petitioner in good faith purchased the same for valuable consideration through a registered sale deed dated 11.10.1991. Since then the petitioner has been in occupation and enjoyment of the said lands. In recognition of the petitioner's possession and enjoyment, the revenue authorities have mutated the petitioner's name in the revenue records. Pattadar passbooks have also been issued.

4. It is contended that after the said purchase, the petitioner had developed the land, the unofficial respondent No.5 having developed a greedy

eye on the property began interfering with the petitioner's possession. The petitioner had to file a civil suit in O.S.No.617 of 2009 on the file of the I Additional Junior Civil Judge, Nellore. The said suit was decreed, vide the judgment and decree dated 12.07.2013. Even after the disposal of the suit, the 5th respondent, in his continuous attempts to dispossess the petitioner, approached the District Collector, stating that the subject land is an assigned land and the without authority, the petitioner had occupied it. Based on the said representation, the 2nd respondent initiated action against the petitioner and issued a notice dated 11.06.2010. Challenging the said notice, the petitioner approached this Court by way of a writ petition in W.P.No.26995 of 2010. In the said writ petition, interim orders were granted. Despite the pendency of the said writ petition, the 2nd respondent passed orders directing the 4th respondent to resume the land to the Government. In pursuance thereof, the 4th respondent issued notice in Form-II under the provisions of A.P. Assigned Lands (Prohibition of Transfers) Rules, 2007, dated 21.02.2015. Thereafter, an order dated 16.04.2015 was passed, stating that the subject lands are assigned lands and that the petitioner has been in possession of them unlawfully. Challenging the said proceedings, the petitioner filed an appeal before the Revenue Divisional Officer, Nellore, the 3rd respondent herein. The 3rd respondent rejected the appeal vide its order dated 01.02.2016. Being aggrieved by the same, a revision petition was filed before the 2nd respondent. The 2nd respondent vide proceedings dated 10.10.2016 dismissed the revision petition. Aggrieved by the proceedings of

the 2nd respondent, the petitioner approached the 1st respondent, by way of Revision petition. The 1st respondent, vide impugned proceedings, rejected the revision stating that the petitioner had purchased the land from the original assignee which is contrary to the provisions of the AP Assigned Lands (Prohibition of Transfers) Act, 1977 (hereinafter referred to as 'the Act'), observing thus the 1st respondent confirmed the proceedings of the 2nd respondent. The learned counsel for the petitioner argues that the petitioner is land less poor person and thus he is protected by the provisions of Section 3(5) of the Act.

5. In this regard, the learned counsel for the petitioner relies on the Judgment of erstwhile High Court of Andhra Pradesh in the case of ***Madamaneni Chinnaswamy (died) per LRs vs. Joint Collector, Chittoor and others***¹, wherein this Court referring to the judgment of Apex Court in the case of ***Ibrahimpatnam Taluk Vyavasaya Coolie Sangham vs. K.Suresh Reddy***² held that as follows:

“23. The exercise of power under Section 4, which is intended to protect the interests of gullible assignees shall not be allowed to become nightmare to the equally gullible purchasers, who purchase the assigned lands out of sheer ignorance of the prohibition contained in the Act and the consequences of such purchases. In their anxiety to do justice to one section of the society, the authorities cannot harm the interests of another section by subjecting them to long process of litigation many years after the assigned land is purchased. In

¹ 2009 (1) ALT 424

² (2003) 7 SCC 667

other words, a legislation, which is a boon for one section of the society, shall not become a bane for others, in its purported implementation.

24. On the basis of the abundance of authority, I am of the considered opinion that even while exercising power under a statute such as the Act in the instant case, the authorities cannot act mechanically ignoring the long delay in either the aggrieved party approaching the authorities or initiating suo moto proceedings. In either case, unless there are proper and sufficient reasons such as blatant fraud played by the purchaser of the assigned land and the same which despite due diligence did not come to light, the authorities cannot initiate proceedings beyond reasonable period after the assigned land is sold. Lest the remedy will become worse than the disease.”

6. Learned counsel for the petitioner further in support of his contention that he is protected by the provisions of Section 3(5) of the Act places reliance on the Division Bench Judgment of the erstwhile High Court of Andhra Pradesh in the case of **Boddeda Sambamurthy vs. Tahsildar, Anakapalli**³, the Division Bench Judgment of the erstwhile High Court of Andhra Pradesh in the case of **K.Sriramachandra Murthy Raju and others vs. The State of A.P., rep by the District Collector, Visakhapatnam and others**⁴, the Judgment of the erstwhile High Court of Andhra Pradesh in the case of **Abdul Khayoom vs. The Mandal Revenue Officer, Amrabad Mandal**⁵, the Judgment of the erstwhile High Court of Andhra Pradesh in the case of **Chepuri Venkateswarlu vs. Joint Collector, Ongole, Prakasam District**

³ 1988 (2) ALT 304

⁴ 1997 (1) ALT 185

⁵ 1996 (1) ALT 209

and others⁶ and the Division Bench Judgment of this Court in the case of **State of Andhra Pradesh vs. Pallem Laxmi Vara Prasad**⁷ and the decision of this Court in W.P.No.4091 of 2009 dated 06.03.2025.

7. Learned Assistant Government Pleader for Revenue has placed before the Court a Copy of the record relating to the 10(1) Register and 1(B), and contends that the assignment was made in respect of the subject land in the year 1969 in favour of the unofficial respondent No.5. Thus, the impugned order, was rightly passed.

8. Learned counsel for the petitioner submits that the entries made in the said registers would not substantiate the claim of the respondents that the land was assigned in favour of the unofficial respondent No.5 in 1969. The learned counsel for the petitioner further submits that the respondents did not file any documents in support of their contentions that the subject land was assigned in favour of the 5th respondent in 1969. Thus, he contends that the provisions of Section 3(5) of the Act protect the transfers made in favour of the landless poor in good faith for valuable consideration. He further contends that after lapse of several years the respondents cannot initiate action for resumption and the same are void.

9. Sri Nimmala Satyanarayana learned counsel for the unofficial respondent Nos.6 & 7 argues that the respondent No.5 was assigned the subject property; however, fraudulently, the sale deeds were registered in

⁶ 2008 (6) ALT 555

⁷ W.A.No.454 of 2019 dated 24.08.2023

favour of the writ petitioner. All the authorities have given finding that the subject land is an assigned land. In light of the said findings, this Court cannot entertain the Writ Petition. It is further argued that the instant writ petition is for issuance of a writ of Certiorari, this Court acting under Article 226 of the Constitution of India cannot go into the findings of facts arrived at by the appellate and revisional authorities. It is further contended that the original assignee (5th respondent-deceased) was a landless person, the 7th respondent being the sole surviving legal heir of the original assignee, who is also a land less poor person, as the subject alienation of the assigned land in favour of the writ petitioner is in violation of the provisions of Act 9 of 1977, the unofficial respondents should be restored the assignment and possession of the land. Thus, prays for dismissal of the writ petition and for reassignment of the land in favour of unofficial respondents.

10. Sri Nimmala Satyanarayana, learned counsel in support of his contention relies on the decisions of this Court in ***Union of India Rep. by it's the Secretary, Government of India and others vs. Namarla Satyanarayana***⁸, ***K.Venkata Nagamani and others vs. Government of A.P., Rep. by its Principal Secretary and others***⁹.

11. Sri Nimmala Satyanarayana, learned counsel for the unofficial respondent Nos.6 and 7 refuting the arguments of the learned counsel for the petitioner that the writ petitioner is protected under the provisions of Section

⁸ 2022 SCC Online AP 1395 : (2022) 4 ALT 280 : (2022) 5 ALD 192 : (2022) 3 AmLJ 331

⁹ 2023 SCC Online AP 715

3(5) of the Act places reliance of the Judgment in the case of **Gade Ramulu & others vs. the District Collector and others**¹⁰. The relevant paragraph is extracted hereunder:

“17. Neither before the 3rd respondent nor before the appellate authorities, respondents 2 and 1, nor even before this Court have the petitioners asserted any specifics in support of what is merely a bald assertion in the affidavit filed in support of the writ petition that they are landless poor persons. Before the 3rd respondent, the seminal case of the petitioners is that they had purchased the lands from the original assignees in the years 1952 and 1953 and were in continuous and long possession and occupation thereof. Such assertion by itself does not amount to discharge of the burden the legislature places upon the purchasers of assigned lands, under Section 3(5). On this failure of the petitioners to discharge the legislatively ordained burden under Section 3(5), the presumption under Section 4(3), springs into play so also the sanctions under Section 4(1). There is no escape from these syllogisms of Sections 3 and 4 of the Act.”

12. The learned counsel for the unofficial respondent Nos.6 and 7 further placing reliance on the judgment in the case of **P.V. Rajendra Kumar and another vs. Government of Andhra Pradesh and others**¹¹, wherein it was held as follows:

“5. It is not the pleaded case of the respondents that the assignment made in favour of Neeruganti Yerranna prior to 1942 contained any condition of non-alienation. The fact that several registered transactions were allowed to take place raises a presumption in favour of absence of such non-

¹⁰ 2003 (1) A.P.L.J. 56 (HC)

¹¹ 2010 SCC Online AP 919 : (2011) 3 ALD 571

alienability. For the first time, the Government by G.O. Ms. No. 1142, dated 18.6.1954, in respect of Andhra Area, introduced the condition of non-alienability of assigned lands and the assignments made thereafter invariably contained such a condition. Inasmuch as the land was admittedly assigned prior to the year 1942 and in the absence of any record to show that such assignment contained the condition of non-alienability, it is not permissible for the respondents to presume the existence of such a condition and refuse registration of the land.”

13. In reply, learned counsel for the petitioner submits that the in the counter-affidavit filed before the Revisional Authority, the unofficial respondent did not file a counter claim claiming the reassignment of the land after cancelling the pattadar passbooks in favour of the petitioner. The oral prayer now sought by the unofficial respondents was sought before the 1st respondent; the 1st respondent rejected the same observing that the claim of the original assignee is not valid and that she failed to justify the reasons for reassignment in her favour. Therefore, even if the Writ Petition is dismissed, the unofficial respondent is not entitled to reassignment of the land as the order of 1st respondent in so far as it is against the unofficial respondents has become final, since the unofficial respondents did not challenge the same.

14. Considered the rival submissions.

15. Perusal of the record indicates that no material has been placed before the Court either by the respondent No.5 or by the respondent Nos.1 to 4 to say that the subject property was assigned during 1969.

16. The learned Assistant Government Pleader places reliance on the copy of the 10(1) Adangal wherein reference has been made to certain dates viz., 19.09.1969 and 30.11.1969, and submits that those dates are relevant dates wherein the assignment was granted in favour of the unofficial respondent. From the said documents, the details of assignment cannot be culled out. And the respondents have not placed before the Court any details of assignment granted in favour of respondent No.5.

17. In the instant case, the order of resumption was passed after 24 years from the date of transfer effected in favour of the writ petitioner, which as held by this Court in the case of ***Madamaneni Chinnaswamy (died) per LRs*** (referred supra) is unsustainable.

18. Placing reliance on the judgment of this Court in the case of ***Madamaneni Chinnaswamy (died) per LRs*** (referred supra) and the Division bench judgment of this Court in W.A.No.454 of 2019. I am of the considered view that that the impugned proceedings under which *suo moto* power for resumption was invoked by the authorities after lapse of 24 years is not sustainable under law.

19. Having regard to the same, the impugned proceedings of the 1st respondent dated 09.06.2021 confirming the proceedings No.D.Dis.No.E1/1230/2016, dated 10.10.2016 of the Joint Collector, Nellore, 2nd respondent, and the proceedings No. D.Dis(J)/1870/2005, dated 01.02.2016 of the Revenue Divisional Officer, Nellore, 3rd respondent, and

also the Proceedings No.Rc.B.4851/2010, dated 16.04.2015 of the Tahsildar, Nellore, 4th respondent are set aside. The respondents are directed not to interfere with the possession of the lands of the petitioners.

20. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

JUSTICE KIRANMAYEE MANDAVA

Date: 21.04.2026
BSK

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THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA

WRIT PETITION NO: 14988 OF 2021

Date: 21.04.2026
BSK