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APHC010517252023



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

[3330]

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

PRESENT

THE HONOURABLE SRI JUSTICE TARLADA RAJASEKHAR RAO

WRIT PETITION No. 26719/2023

BETWEEN:

1. BATTIPOTHULA ROSAIAH, S/o. ROSAIAH, ISIS AGED ABOUT
70 YEARS, R/o. PATHANAPURAM VILLAGE, KALIGIRI
MANDAL, S.P.S.R. NELLORE DISTRICT

...PETITIONER

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL
SECRETARY, REVENUE DEPARTMENT, SECRETARIAT,
VELAGAPUDI, GUNTUR DISTRICT.

2. THE DISTRICT COLLECTOR, NELLORE, S.P.S.R. NELLORE
DISTRICT.

3. THE REVENUE DIVISIONAL OFFICER, KAVALI, S.P.S.R.
NELLORE DISTRICT.

4. THE TAHSILDAR, KALIGIRI MANDAL, S.P.S.R. NELLORE
DISTRICT.

5. CHALLA VIJAYA BHASKAR REDDY, S/o. PENCHALA REDDY,
AGED ABOUT NOT KNOWN TO THE PETITIONER, R/o.
PATHANAPURAM VILLAGE, KALIGIRI MANDAL, S.P.S.R.
NELLORE DISTRICT.

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue writ, order or directions more particularly one in the nature of Writ of Mandamus declaring the action of the 4th respondent in issuing endorsement in RC.B/600/2023, dt. 19.07.2023, recommending to cancel the DKT patta of the petitioner instead of restore the land in Sy.No.189-3, to an extent of Ac.3.19 cents, situated al Kull apela Village of Kaligiti Mat idal, S.P.S.R. Nellore District in favour of the petitioner is highly illegal, arbitrary, unconstitutional and violation of principles of natural justice and also apart from violative of Articles 14, 16, 21 and 300-A of the Constitution of India, set aside the same and consequently direct the 4th respondent to restore the land in Sy.No.189-3, to an extent of Ac.3.19 cents, situated at Kothapeta Village of Kaligiri Mandal, S.P.S.R. Nellore District in favour of the petitioner and to pass such other order or orders.

Counsel for the Petitioner:

1.S DILIP JAYA RAM

Counsel for the Respondent(S):

1.GP FOR REVENUE

2.SIVAPRASAD REDDY VENATI

The Court made the following:

ORDER:

The present writ petition is filed under Article 226 of the Constitution of India, to issue a mandamus or any direction and to declare the action of the 4th respondent in issuing endorsement in RC.B/600/2023 dated 19.07.2023 recommending cancellation of the DKT patta of the petitioner instead of restore the land in Sy. No.189-3, to an extent of Ac. 3-19 cents, situated at Kothapeta Village of Kaligiri Mandal, SPSR Nellore District, in favour of the petitioner, is highly illegal arbitrary, unconstitutional and violation of principles of natural justice and also apart from violative of Articles 14, 16, 21 and 300A of the Constitution of India, and prayed to set aside the same and consequently direct the 4th respondent to restore the land in Sy. No. 189-3, to an extent of Ac. 3-19 cents situated at Kothapeta Village of Kaligiri Mandal, S P S R Nellore District, in favour of the petitioner.

2. After summarising the entire affidavit filed in support of the writ petition, it is the specific case of the writ petitioner that he was a land less poor person and on his application the revenue authorities have granted DKT Patta in Sy. No. 189-3, to an extent of Ac. 3-19 cents situated al Kothapeta Village of Kaligiri Mandal and the petitioner has brought the land into cultivation and his name was recorded in the revenue records, since then, the writ petitioner is in peaceful enjoyment and possession of the land assigned. After the demise of his wife, the

petitioner fell sick and his brother by name Battipothula Janki Ramaiah took away him to his house for treatment. In the absence of the petitioner in the village, the 5th respondent has occupied the petitioner's land and planted mango trees. After recuperation from health and heading home, the petitioner has approached the 5th respondent and requested to evict from the subject land and handover the same to the petitioner. As the 5th respondent has not heeded to the request, had made an application in spandana. The 4th respondent-Tahsildar has directed Village Revenue Officer to conduct an enquiry and submit a report. Accordingly, the Village Revenue Officer has conducted an enquiry and submitted a report to the 4th respondent-Tahsildar on 16.09.2023. The 4th respondent-Tahsildar has issued an endorsement vide proceedings in Rc.B/600/2023 dated 19.07.2023 and recommended for cancellation of DKT patta issued in favour of the writ petitioner, on the ground that the petitioner has not brought the land into cultivation.

3. The said endorsement dated 19.07.2023 issued vide proceedings in Rc.B/600/2023 was assailed in the writ petition on two grounds that as per Section 3(2) and Section 4(1) (ii) of the A.P. Assigned Lands (POT) Act, 1977 (for short hereafter called as Act 1977) that land has to be restored to the original assignee

“No landless poor person shall transfer any assigned land, and no person shall acquire any assigned land, either by purchase, gift, exchange or otherwise”.

“Restore the said assigned land, other than those lands/areas as may be notified by the Government from time to time in public interest and for public purpose, to the original assignee, subject to the condition that he or she is landless poor person as on the date of restoration for one time”. The petitioner is entitled for restoration of land for one time as per the provisions of the A.P. Assignment (Prohibition of Transfers) Act 1977.

4. And further contended that the 4th respondent-Tahsildar ought not to have been recommended to cancel the DKT patta through the impugned endorsement, on the discreet enquiry conducted by the Village Revenue Officer.

5. The 4th respondent-Tahsildar has filed the counter and it is asserted that a notices dated 25.10.2023 issued under Form-I and Form-II under Section 4 of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977, and both the assignee and the occupier has submitted their explanations and it is found that the petitioner has not brought the land into cultivation within three years; and he left the village about 30 years back and settled at Siddanakichayapalli village of Porumamilla Mandal, Kadapa District, hence, the petitioner is not entitled to restore the assigned lands as per Section 4(1)(ii) of A.P. Assigned Land (POT) Act, 1977, and the 5th respondent occupied the

subject land and raised dry crops and also raised Mango plantation aged about 10 years and the petitioner is having the remedy of appeal under Section 4-A of the Act 1977. Hence, prayed to dismiss the writ petition.

6. The writ petitioner has acknowledged in his affidavit filed in support of the writ petition that he has left the village due to health reasons. There is no evidence to prove that the petitioner has brought the land into cultivation and it is an admitted fact that the 5th respondent has occupied the land and has engaged in cultivation by raising crops. It was not disputed that no notice was issued as required under Form-I and Form-II pursuant to Section 4 of the A.P. Assigned Lands (POT) Act, 1977, to entertain the writ petition under Article 226 of the Constitution of India, on the basis of breach of the violation of principles of natural justice. To invoke Section 4(1) (ii) of the A.P. Assigned Lands (POT) Act, 1977, the petitioner has not alienated the land or created any third party rights and he merely left the village long back and according to the counter after lapse of 30 years, the petitioner is now asserting claiming that the land should be restored relying on Section 4(1) (ii) of the A.P. Assigned Lands (POT) Act, 1977. This Court is of the view that the contention that, after a lapse of 30 years, the petitioner cannot agitate all the grounds in the writ petition which require evidence.

7. Therefore the present writ petition is dismissed with a direction to the writ petitioner to avail the alternative remedy of filing appeal under Section 4-A of A.P. Assigned Lands (POT) Act, 1977 in accordance with law. However, no order as to costs.

As a sequel, interlocutory applications, if any, pending in this writ petition shall stand closed.

JUSTICE TARLADA RAJASEKHAR RAO

Date: 21.04.2026

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THE HON'BLE SRI JUSTICE TARLADA RAJASEKHAR RAO

W.P.No. 26719 OF 2023

Date 21-04-2026

Harin