

A.P. Assigned Lands (Prohibition of Transfers) Act 1977

(As amended in Act 8 of 2007 & Act 21 of 2008)

Presented by

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INTRODUCTION

- *The Government had been assigning Govt. Lands to the landless poor persons who had no other means of livelihood. In Andhra area such assignment of Lands are governed by Board Standing Orders while in Telangana area, they are governed by the rules framed under the Andhra Pradesh (Telangana Area) Land Revenue Act 1317 Fasli. Nevertheless, the rules governing such assignment of lands and conditions of grant of the Government Land are same. The Pattas granted there under invariably contained a clause that the lands assigned were heritable but not alienable and several other conditions have been imposed.*

A clause to the effect that the land will resumed for the violation of the condition of the grant has been incorporated in every assignment with the hope that such restrictions would prevent the deprivation to the poor landless persons of the land assigned to them. However past experience has shown that substantial extents of lands assigned to landless poor persons have been alienated and are in possession of well to do persons. The conditions of the grant were found to be too ineffective and too inadequate to achieve the social goal set by the Govt. The standing orders are not statutory instruments and they do not have any force of Law except such of the orders which are issued by virtue of statutory powers of the Board.

The existing rules do not have any provisions for punishment of persons who purchased such lands. Efforts made for assigning large extents to landless poor persons are going waste. Therefore with a view to enforce the objective more efficiently, a protective legislation in the nature of the Act called the A.P. Assigned Lands (POT) Act 1977 (Act 9 of 1977) was enacted to prohibit alienation of Assigned Lands to landless poor persons and to provide for punishment of purchasers of such lands. The Tahsildars should thoroughly acquaint with the various sections of the Act under which the powers are conferred on them.

- ***The A.P. Assigned Lands (POT) Act 1977*** is a self contained code, in the sense that it provides for resumption, restoration and distribution of the Assigned Lands. Except Sec. 2 of the Act which came into force on 21.01.1977, the remaining provisions shall come into force w.e.f. 29.01.2007 (G.O.Ms.No. 125, Revenue, dt. 05.02.2007). But Section 3 (1) of the Act not only prohibits transfer of the Assigned Lands on or after the commencement of the Act, but also declares retrospectively that all transfers of such lands which took place prior to the coming into force of the Act shall also be null and void and no right or title in such Assigned Land shall vest in any person acquiring the land by such transfer.

- *In this Act, any transfer or acquisition made either by purchase, gift, lease, mortgage, exchange or otherwise in respect of Govt. lands or Surplus lands assigned to landless poor persons for purpose of cultivation or as House Site subject to the condition of non-alienation shall be deemed to be null and void. (Section 3 (3)).*

PROTECTION UNDER SECTION 3(5)

- a) The Act is not applicable if the conditions prescribed under section 3 (5) are satisfied namely*
- b) the purchaser must be landless poor person.*
- c) the purchase must be in good faith and for valuable consideration.*
- d) the purchase must be from the original assignee or from the transferee prior to the commencement of this Act.*
- e) the land so purchased is in possession for cultivation or House site on the date of such commencement.*

- *But the burden cast on the purchaser of assigned land claiming exemption under Sec. 3(5).*
- *Land purchased by a landless poor person does not lose the characteristics of Assigned Lands. By reason of Sec. 3(5) the purchaser does not acquire an absolute right to alienate the land.*

CONDITION OF NON-ALIENATION

- *The Act cannot be invoked in the following cases as per the decisions of the Courts.*

- 1) *Where prohibition against alienation is exhausted by efflux of time before the commencement of the Act.*
- 2) *If there is no prohibition against alienation when assignment was made. Therefore condition of non-alienation is essential ingredient of assigned land.*
- 3) *Sale of land assigned under Loani Rules 1950 without a condition of non-alienability.*
- 4) *If a person is in possession of the land for more than 30 years prior to commencement of the Act he acquires perfected title by adverse possession against the Govt. Therefore the transferee of Assigned Lands who has perfected title by the date of the commence of the Act has to be held to be outside the purview of the Act. (Mandlappa case 1977 (2) ALD 177 (DB) 1997 (3) ALT 162 (DB).*

5) Condition prohibiting alienation imposed for the first time in the year 1954. Hence would not operate the Assignments made earlier thereto. Further purchaser of Assigned Lands acquires ownership rights by prescription if he enjoys possession of said land for 30 years. Purchaser of an Assigned Lands virtually enjoys the possession adverse to the interest of the Govt. and with the expiry of 30 years stipulated under the Limitation Act 1963, he acquires ownership rights by way of prescription (KM Kammanulla Basha and others V/s Dist. Collector, Chittoor and other 2009 (3)ALD 385-2009 (1) LS 335.)

6) Will :- Testamentary disposition is permissible under POT Act. However such this position cannot be in favour of a stranger. Sister's son was held to be a stranger to the family. (Chenna Reddy V. Venkata Reddy 2004 (1) ALT 406 See also K. Yesurathnam V/s CLR. AP 1997 ALT 829).

7) *In several cases with regard to Government land assigned under various categories, NOCs are being indiscriminately issued by the Tahsildars, RDOs and the District Administration contrary to the instructions issued by misrepresenting the Rules and NOCs are being issued to facilitate illegal allottees/assignees to sell the valuable land.*

Government therefore directed that no NOC should be issued the Tahsildar, RDOs and District Level Officer until the matter is examined and decision taken in this regard. (Govt. Memo No. 21307/ASSN-1(1)/2012, dt. 09.05.2012).

CONSEQUENCES OF BREACH OF PROVISIONS OF SEC. 3

SEC.4

While section 3 of the Act imposes certain prohibitions for transferring the assigned lands, Section 4 of the Act provides for consequences of breach of the provisions of Section 3. If there is a violation of the section 3 i.e. alienation of the assigned land, then only section 4 comes into operation.

➤ *U/s 4 the Tahsildar can take possession of the assigned lands in cases of the contravention of provisions of sub sections (1) of Section 3 of the Act after evicting the person in possession and **reassign** the said resumed land other than those lands / areas as may be notified by the Govt. from time to time in public interest and for public purpose of the transferee who purchased the land in good faith and for valuable consideration on or before 29.01.2007 subject to the condition that he / she is landless poor persons and he is in occupation of the land by using the said land for agriculture or house site as on the date of taking possession by eviction.*

- *Provided that the reassignment in case of transferee shall be limited to only such an extent that the total holding of the re assignee including any other land held by him does not exceed 5.00 Acres of dry or 2 ½ Ares of Wet.*
- *Provided further that where the transferee who have purchased the land and got re-assignment or his legal heir, transfers the re-assigned land the land shall be resume for assignment two other eligible landless poor.*

- **Restore** the said assigned land to the original assignee if it is not notified by Govt. for public purpose subject to condition that he is landless poor person as on the date of restoration for one time.
- **Assigned** to other eligible landless poor persons.

Provided that the restoration shall be limited to only such an extent including any other land held by him does not exceed 5.00 Acres of dry or 2 ½ Acres wet.

Provided further that where the original assignee or his legal heir after first restoration transfers the assigned land, the land shall be resumed for assignment to other eligible landless poor.

- *Provided also if no eligible landless poor persons are available in the village the resumed land will be utilized for public purpose.*
- *Explanation :- For the purpose of this clause public interest and public purpose mean and include the weaker section housing public utility, infrastructure development, promotion of industries and tourism or for any other public purpose. (Amended Act 2008).*

RESUMPTION OF ASSIGNED LANDS

- *The Act is a self contained Act. Where any assignee has violated any conditions of the assignment, the authority has got jurisdiction to take action for resumption of the land under section 4 (1)(b). After the Act has been enacted, acting in accordance with G.O.Ms.No. 1142 amounts to acting contrary to the legislative in relation to resumption. The executive direction and the legislative enactment both on the topic of resumption cannot co-exist. The Act should prevail over executive instructions. Therefore resumption of assigned land under B.S.O. or any other executive instructions after commencement of the Act is illegal and without jurisdiction.*

- *Any order passed under sec. 4(1) shall be final subject to decisions in appeal and revision and shall not be questioned in any court of Law and no injunction shall be granted by the Court (Sec. 4 (4)).*
- *Before taking action under Sec. 4 (1) (a) & (b), the Collector or other Officer has to give a notice to the person sought to be evicted in the prescribed Form I and give him a reasonable opportunity to state his case and pass orders.*

APPEALS AND REVISIONS (SEC. 4 (A) & 4 (B)).

- *Section 4 A (1) provides for an appeal against the orders of the Mandal Revenue Officer to Revenue Divisional Officer within 90 days from the date of receipt of the order. Section 4 A (2) provides another appeal to the District Collector against the order of the Revenue Divisional Officer. There is a provision for Revision also to the District Collector and Govt. under section 4 B (1).*
- *Chief Commissioner of Land Administration or any other authority has not been conferred with any revisional jurisdiction against order of Joint Collector (B. Poornachandra Sekhar Rao V/s. Govt. 2006 (6) ALD 418).*

PROHIBITION OF REGISTRATION OF ASSIGNED LANDS:

- *U/s 5(1) of the newly amended Act, District Collector or any other Officer not below the rank of Tahsildar to be authorized by him in this behalf requires to furnish a list of lands Assigned to landless poor persons with all particulars of Assignment within 45 days from the date of commencement of amended Act to Registering Officer.*
- *U/s. 5(2) no Registration Officer shall accept for register of any document relating to transfer of or creation of any interest in any assigned land as furnished in the list U/s. 5(1).*

PENAL PROVISION (SEC. 7)

➤ *Section 7 of the Act incorporates the penalty for the contravention of the provisions of the Act as follows:*

(1) Whoever acquires the land assigned is liable to be punished with imprisonment which may extend to 6 months or with fine which may extend to Rs. 2000/- or with both.

(2) Whoever opposes or impedes the District Collector or any person authorised in taking possession of any Assigned Land is liable to be punished with imprisonment which may extend to six months or with fine which may extend to Rs. 5000/- or with both.

(3) Under this section prosecution is not maintainable if the sanction of the District Collector against the petitioner is not obtained before launching prosecution.

- 4) *Voluntary disclosure and surrender of the assigned land in his possession by any person within 90 days from the commencement of amended act 2007 shall be exempted from prosecution (Proviso U/s. 7 (1))*
- 5) *Any Officer violating the provisions U/s 1 & 2 of new Sec. 5 shall be punished with imprisonment which may extend 6 months or with fine which may extend to Rs. 10,000/- or with both. (Sec. 7 (2 A) of the amended Act 2007.*

Notices in Forms I & II are to be issued to the transferor and the purchaser

Court's decisions under the A.P. Assigned Lands (POT) Act 1977

- Except a testamentary disposition i.e. a will any transfer whatever name called is totally prohibited – A will can be executed by the assignee under the Act only in favour of his family members but not to strangers.
- The Act totally prohibits induction of strangers to the family of assignee either during his life time or thereafter. In cases of adopted son, there must be proof of adoption. (in Katta Yesuratnam V/s CLR, Hyderabad and others, 1993(2) APLJ 444)
- The Act applies to the assignments & transfers effected even before the commencement of the Act. (1987 (1) ALT 124 (F.B)= 1987(1) APLJ.171 AIR 1987 –A.P. 160 (F.B.)

- *When notice was not served on the transferee or the assignee, mere recording of statement does not conform to the procedure laid down in the Act nor can it be said that there was an opportunity given*
- *Tahsildar has to give reasons for holding that the purchase was not in good faith (Chinnakondayya V/s District Collector (1981) 2 An. W.R. Page 22)*
- *Act 9/77 cannot be invoked.*
 - 1) *Where prohibition against alienation is exhausted by efflux of time before commencement of the Act.*
 - 2) *If there is no prohibition against alienation when assignment was made: -1984 (2) APLJ (S.N)B*

- *In case if the original assignment was for agricultural purpose and the assignee sold away the land and died, legal heirs of the deceased are not entitled to restoration of possession when they are not agriculturists. (B. Karunakar vs. MRO, Anantapur, 1990(1) An.WR 27 (NRC) – 1990 (2) ALT 62).*
- *The sale to a landless poor person is prohibited subsequent to the Act came into force either through court auction or private sale. (H. Bazarappa vs. H.C. Ranganna, 2004 (1) An.WR 646 (AP)).*

- *After amendment Act, 2007, the right of the assignee to seek restoration of land after resumption even if he continues to be landless poor is not absolute. (MRO Vetapalem and another, 2007 (3) ALT 489).*
- *Attachment of standing crop on assigned land for recovery of amount due from him is not illegal. (M. Gantaiah vs. K. Peddaraju, 2006 (6) ALT 236).*
- *An ex-serviceman who was assigned Govt. Land is not prohibited to sell the assigned land after ten years of grant. (S. Bade vs. Dist. Collector, Visakhapatnam, 2005 (5) ALT 635). But subsequently it was instructed such lands shall not be sold without obtaining NOC from the District Collector (G.O.Ms.No. 307 Rev., dt. 6.6.13)*

- *Cancellation of assignment under BSO 15(18) – The subject relating to assignment and transfer of land was allotted to Joint Collector in G.O.Ms.No. 77, Revenue, dated 22-1-1968. Hence Joint Collector has authority to deal with cancellation of assignment. (M. Venkataratnam vs. J.C. West Godavari, 2006 (2) ALT 44).*
- *Under Section 4A and 4B of the Act, the Commissioner of Land Administration or any other authority other than Government has not been conferred with any revisional jurisdiction against the order of Joint Collector (B.P.C. Rao vs. Principal Secretary to Govt. 2007 (1) ALT 159).*

Thank
You!

