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Restriction on Alienation / Transfer of Agricultural Land Under the Telangana Tenancy and Agricultural Lands Act, 1950

Praveen Kumar Jun 29, 2021

Restriction on Alienation / Transfer of Agricultural Land Under the Telangana Tenancy and Agricultural Lands Act, 1950 (the “**Tenancy Act**”) was enacted to *inter alia*, protect the rights of tenants of agricultural lands in the State of Telangana. It governs the alienation or transfer of agricultural lands by the land holder of agricultural lands.

Sections 47 and 48 of the Tenancy Act (prior to their repeal) put restriction on the transfer of agricultural land by its land holder. Every land holder alienating the land agricultural land permanently was required to obtain a prior permission from the concerned Tahsildar.

Section 47 of the Tenancy Act provides that:

notwithstanding anything contained in any other law for the time being in force or in any decree or order of the court;

no permanent alienation and no other transfer of agricultural land shall be valid unless it has been made with the previous sanction of the Tahsildar;

provided that the Tahsildar may declare a permanent alienation or transfer took place before the commencement of the Hyderabad Tenancy and Agricultural

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Lands (Amendment) Act 1954 and possession of the land transferred was given to the purchaser before such commencement and if the application for sanction is made within one year after such commencement.

Section 48 of the Tenancy Act provides that:

In case of the permanent alienation or transfer the Tahsildar shall not sanction the permission if (a) the area of the land held by the alienor or transferor after the alienation or transfer would be less than three times of a family holding determined under Section 4 of the Tenancy Act;

Provided that the requirements of this clause may be dispensed with by the said officer, if he is satisfied that the alienor or transferor as the case may be is not an agriculturist or intends to give up the profession of an agriculturist or is alienating the whole of the land in his possession or that the transfer is being made by an agriculturist for good and sufficient reasons subject to his retaining a basic holding; or

The area of land held by alienee or transferee after the alienation or transfer would exceed three times of the family holding so determined under Section 4 of the Tenancy Act after excluding therefrom the following area, namely: any area of the land held by the alienee or transferee which is in possession of the protected tenant/s in respect of which the alienee or transferee as the case may be relinquishes the right to resumption of his personal cultivation under Section 44 of the Tenancy Act permanently against such protected tenant/s;

Provided that the government may for such reasons as may be prescribed permit a permanent alienation or transfer as a result of which the area of land held by the alienee or transferee after the alienation or transfer excess the maximum area that can be held under this clause;

In the case of mortgage, the Tahsildar shall not sanction the same if the terms of the mortgage are such that possession of the land is to be or may be delivered to the mortgagee as security for the money advanced or to be advanced.

In view of restrictions contained in Sections 47 and 48 of the Tenancy Act, if any land is transferred by the land holder without obtaining prior permission from the Tahsildar, such transfers/alienations are invalid.

The State Government, through Act 12 of 1969 ("**Tenancy Amendment Act**") amended the Tenancy Act to omit Sections 47 and 48 of Tenancy Act and insert Section 50B for validation of transfers which took place without following the procedure prescribed under Sections 47 and 48 of the Tenancy Act.

Section 50B of the Tenancy Amendment Act empowers the Tahsildar to validate the alienations made on or after June 10, 1950 till the date of the commencement of the Tenancy Amendment Act which date was extended from time to time till March 31, 1972. Under sub-section (2) Section 50B, the Tahsildar shall hold an enquiry and shall issue a certificate declaring the alienation or transfer as valid. Such a certificate shall be of conclusive evidence of such alienation as against the alienor

or any person claiming interest under him. This facility of getting alienations validated under Section 50B was afforded to alienees with the obvious intention of giving them an opportunity to get their alienations or transfers validated upto March 31, 1972 although they were invalid for want of previous sanction by the Tahsildar. If the transferee or alienee did not avail himself of this opportunity he would suffer the consequences of the transfer and delivery of possession in his favour remaining invalid and unlawful. After March 31 1972 there is no possibility of validating invalid transactions which took place preceding the said date. Therefore, the title or right created in favour of alienees get extinguished once and for all after March 31, 1972 if they were not validated before March 31, 1972.

The High Court of Andhra Pradesh in the case of *Modem Rajamouli Versus Modem Roshaiah and Others*^[1], while considering the validity of sale without obtaining prior permission of the Tahsildar under Sections 47 and 48 of the Tenancy Act held that “a transfer without obtaining the prior permission of the Tahsildar is invalid”. It was further held that “if the invalidity of alienation is not cured before the specified time under Section 50-B of the Tenancy Act, the transfer and delivery of possession is invalid and unlawful and such transfer could not be granted the protection available under Section 53-A of the Transfer of Property Act, 1882”.

The aforesaid view of the High Court of Andhra Pradesh has been reiterated by the Supreme Court in the case of *N Srinivas Rao Versus Special Court under A P Land Grabbing (Prohibition) Act and Others*^[2]. In view of the above, the purchaser of an agricultural land will acquire valid title only if the transferor of the agricultural land has sold the land upon obtaining the prior permission from the Tahsildar under Sections 47 and 48 of Tenancy Act prior to the Tenancy Amendment Act and/or same is validated under Section 50B of the Tenancy Amendment Act.

The views and opinions expressed in this article belong solely to the author and do not reflect the position of Tatva Legal, Hyderabad.

[1] 2000(3)ALT687

[2] AIR 2006 SC 3691

[Tenancy Act](#)

[Tenancy Amendment Act](#)

[N Srinivas Rao vs. Special Court under A P Land Grabbing \(Prohibition\) Act](#)

[Modem Rajamouli vs. Modem Roshaiah](#)