

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

**FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

**WEDNESDAY, THE FIFTEENTH DAY OF APRIL TWO THOUSAND AND
FIFTEEN**

Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.14281 of 2003

Between:

Y. Viswanatha Sastry,

S/o. Late Y. Nanappa,

Aged about 86 years, Residing at

Chilamattur Village and Mandal,

Anantapur District & 6 others

.. Petitioners

AND

The Joint Collector-cum-Settlement Officer,

Anantapur & 6 others

.. Respondents

The Court made the following:

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ORDER:

Village Yagnasettipalli was notified as an Inam Estate under Section 1(4) of Estates (Abolition and Conversion into Ryotwari) Act, 1948 (for short, 'the Act 1948'), and was taken over by the Government. It was noticed that the several

lands are in possession by the land holders and enjoyed by their successors. After completion of field operations, the Joint Collector-cum-Settlement Officer, Ananthapur (1st respondent), initiated proceedings under Section 15(1) of the Act 1948 *suo moto*. Accordingly, *suo moto* enquiry was taken up to decide the question pertaining to the grant of ryotwari patta in respect of four extents of land in that village including land in R.S.No.19/1 to an extent of Ac. 1.49 cents. Notices in the prescribed form under Section 15(1) of the Act 1948 were issued. In the said manner, notice bearing Rc.No.45/2002, dated 23.08.2002, was issued concerning the above extent of land asking the petitioner to attend before the competent authority. According to the petitioner, the petitioner has appeared and made his submissions. Thereafter, orders were passed in S.R.No.566/15(1)/84, dated 27.03.2003, granting ryotwari patta in favour of Y. Narayana Murthy, who is the third respondent herein in respect of land to an extent of Ac. 1.49 cents in R.S.No.19/1. Challenging the same, this writ petition is filed.

2. Learned counsel for the petitioners challenges the order impugned in this writ petition primarily on the ground that the said order was passed without giving opportunity of hearing and without considering his objections and is, therefore, liable to be set aside on that ground alone. He further submits that if only an opportunity was afforded to him, he would have establish that this land belongs to the petitioner and, therefore, the question of granting patta in favour of the third respondent would not arise. He further submits that though the order is elaborate and reflects as if the views of villagers as well as the report of the Mandal Revenue Officer, Chilamattur Mandal, Anantapur District (2nd respondent), were considered, petitioner being the person affected, without affording an opportunity to the petitioner, no such order could have been passed adversely affecting the rights of the petitioner, more particularly, when the claim of the petitioner was pending.

3. To ascertain the facts with reference to the issuance of notice to the petitioner concerned in the same property and the consequential action taken thereon, the relevant records were directed to be produced.

4. Based on the original record of the case, the learned Assistant Government Pleader for Revenue submits that in pursuant to the notice, dated 23.08.2002, a further notice was issued on 25.11.2002 directing the petitioner to appear on 28.12.2002. On the said date, vakalath was filed on behalf of the petitioner and an adjournment was sought till 28.12.2002 and such adjournment was granted. Learned Assistant Government Pleader fairly submits that thereafter, the file is silent as to what happened on 28.12.2002 or later.

5. As seen from the record and as fairly submitted by the learned Assistant Government Pleader, concerning the same extent of land, two different files were opened and independently considered. With reference to notice Rc.No.45/2002, dated 23.08.2002, apparently no further proceedings were taken up after 30.11.2002, whereas, in File bearing Rc.No.566/15(1)/94, dated 27.03.2003, the matter was further processed and patta was granted after purported enquiry in the village.

6. There is no whisper in the said order regarding giving of notice and opportunity of hearing to petitioner. Thus, the very action of the respondent authorities in finalizing the issue of grant of ryotwari patta to third respondent without considering the rival claims of the petitioner, which was already pending with the competent authority amounts to abuse of power and denial of reasonable opportunity and fair play to the petitioner.

7. As submitted by the learned counsel for the petitioners, this piece of land was a self-acquired property and has fallen to the share of the petitioner. The petitioner in his written arguments submitted to the Joint Collector-cum-Settlement Officer, Anantapur (1st respondent) contended that the land was purchased as early as in the year 1967. These are relevant factors which ought to have been considered by the competent authority before issuing the certificate in favour of the third respondent. On this ground alone the entire proceedings vitiate.

8. In view of the rival claim which fact was acknowledged and notice issued, the petitioner ought to have been heard before taking the final decision. Thus, the order impugned in the writ petition is set aside. The matter is remitted to the Joint Collector-cum-Settlement Officer, Anantapur (1st respondent) to re-consider the entitlement of the petitioner and third respondent for issuance of ryotwari patta in respect of the land to an extent of Ac. 1.49 cents in R.S.No.19/1 of Yagnasettipalli Village. The petitioner shall immediately submit a detailed representation enclosing all the relevant documents in support of his claim within a period of three (3) weeks from the date of receipt of a copy of this order. On receipt of such representation and documents, the third respondent shall be put on notice indicating the date of hearing. The third respondent shall be given an opportunity to present the documents on his behalf. After completion of pleadings, a date may be fixed by the Joint Collector for personal hearing with advance notice to both sides. Both the petitioner as well as the third respondent are entitled to be represented by advocates as per their choice. The petitioner as well as the third respondent shall co-operate. After affording due opportunity to them, pass final orders.

In view of the long pendency of the issue, the Joint Collector is directed to complete the entire exercise within a period of three (3) months from the date of receipt of a copy of this order.

9. Accordingly, the Writ Petition is allowed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO, J

Date: 15th April, 2015

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