

HON'BLE SRI JUSTICE SANJAY KUMAR

Writ Petition No.17423 of 2004

Date: 27.01.2015

Between:

Kalagara Subba Rao

... Petitioner

And

The Commissioner of Appeals,
O/o the Chief Commissioner of Land
Administration, Andhra Pradesh, Hyderabad
& others

... Respondents

* * *

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ORDER:

The petitioner is aggrieved by the order dated 10.10.2002 passed by the Commissioner, Appeals, Office of the Chief Commissioner of Land Administration, Andhra Pradesh, Hyderabad. By the said order, the Commissioner confirmed the order dated 29.01.1985 passed by the Director of Settlements, Andhra Pradesh.

2. The grievance of the petitioner is with regard to the rejection of his claim for a Ryotwari patta under Section 11(a) of the Andhra Pradesh (AA) Abolition of Estates and Conversion into Ryotwari Act, 1948 in respect of an extent of Ac.0.20 cents in Sy.No.370/5 of Purushothapatnam Village, Seethanagaram Mandal, East Godavari District.

3. It is the case of the petitioner that the subject land fell to his lot in the family partition which took place in the year 1963. It is his further case that his father and his brother who got separate extents of land in the partition were granted Ryotwari pattas in respect thereto. However, his claim was denied under order dated 29.01.1979 passed by the Settlement Officer, Rajahmundry. His revision before the Director of Settlements, Andhra Pradesh, also failed leading to the second revision before the Commissioner, Appeals. The short grievance of the petitioner was that his revision was rejected by the Commissioner without giving him due and proper opportunity of making out his case.

4. Perusal of the order passed by the Commissioner confirms that the petitioner was not heard as he had been called absent. The explanation for the continued absence is set out in the writ affidavit to the effect that the notices were sent to the wrong address of the counsel who appeared for the petitioner before the Commissioner, Appeals. The petitioner therefore asserted that there was no effective notice of hearing in the revision given to his counsel and that was the reason why there was no attendance on the stipulated dates. No counter-affidavit has been filed denying this aspect of the matter.

5. An interim order of *status-quo* as regards possession was passed by this Court on 29.09.2004.

6. As the dispute falls within a short compass, i.e., as to a proper hearing being afforded to the petitioner by the Revisionary Authority and as his averment that he was not given such an opportunity remains un-rebutted, this Court is of the opinion that the interest of justice would be adequately served by directing the Revisionary Authority to give an opportunity afresh to the petitioner and thereafter decide the matter on merits. It is for the petitioner to substantiate his claim as to his entitlement for a Ryotwari patta before the Revisionary

Authority by adducing additional evidence in accordance with law. The order dated 10.10.2002 passed by the Commissioner, Appeals, is accordingly set aside and the matter is remitted for consideration afresh in accordance with law. The Commissioner, Appeals, shall cause notice to be served upon the petitioner as well as his counsel by registered post with acknowledgment due, afford him sufficient time to take necessary steps for placing additional evidence, if any, before him and thereafter consider the matter on merits and pass a reasoned order in accordance with law. This exercise shall be completed expeditiously and in any event, not later than four months from the date of receipt of a copy of this order. Pending this exercise, the order of *status-quo* passed by this Court shall continue to hold the field.

7. The writ petition is allowed to the extent indicated above. Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

SANJAY KUMAR, J

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