

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.30880 of 2015

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ORDER:

Heard.

The petitioner questions the notice issued by the 2nd respondent in File No.D1/5767/2015, dated 08-09-2015, wherein the 2nd respondent proposed to initiate suo motu revision under Section 9 of the A.P. Rights in Land and Pattadar Pass Book Act, 1971 (for short 'the Act'). The said notice informs the petitioner that the revision will be taken up for hearing on 26-09-2015 at 11.00 a.m. and requires him to appear on that date along with the documents.

The said notice is questioned by the petitioner inter alia on the ground that notice indicates the close mind on the part of the 2nd respondent inasmuch as notice itself is given for cancellation of mutation and pattadar pass books relating to the land admeasuring Ac.0-30 gts., in Sy.No.186/AA situated at Manikonda Jagir Village, Rajendranagar Mandal, Ranga Reddy District.

Learned counsel for the petitioner states that the proposed cancellation of mutation and pattadar pass books as mentioned in the show cause notice amounts to pre-judging the issue by the 2nd respondent and the said notice therefore is vitiated and questions the said notice.

Learned counsel for the petitioner fairly stated that under Section 9 of the Act, the 2nd respondent is empowered to initiate suo motu revision. He however submits that the wordings in the notice that he proposed to cancel the mutation and pattadar pass books is indicating very close mind on the part of the 2nd respondent. He placed strong reliance upon the judgment of this Court in ***ORYX FISHERIES PRIVATE LIMITED Vs. UNION OF INDIA AND OTHERS*** and particularly paras '22' and '24' thereof, which are extracted herein:-

“Relying on the underlined portions in the show cause notice, learned

counsel for the appellant urged that even at the stage of the show cause notice the third respondent has completely made up his mind and reached definite conclusion about the alleged guilt of the appellant. This has rendered the subsequent proceedings an empty ritual and an idle formality.

It is well settled that a quasi-judicial authority, while acting in exercise of its statutory power must act fairly and must act with an open mind while initiating a show cause proceeding. A show cause proceeding is meant to give the person proceeded against a reasonable opportunity of making his objection against the proposed charges indicated in the notice.”

Though I have heard the learned Senior Counsel for quite sometime, I am not able to pursue myself to agree to the contentions of the learned Senior counsel inasmuch as power under Section 9 of the Act is very wide and the 2nd respondent is entitled to call for and examine the record of any Recording Authority, Mandal Revenue Officer or Revenue Divisional Officer in respect of any record of rights prepared or maintained to satisfy himself as to the regularity, correctness, legality or propriety of any decision taken, order passed or proceedings made in respect thereof and it is within the jurisdiction of the 2nd respondent that if he is satisfied, he may modify, annul or reverse or remit for reconsideration any such decision or order.

Keeping in view the wide power of revision including suo motu revision entrusted by the Legislature on the said revisional authority, there is no gain in saying that notice issued by the 2nd respondent is not in conformity with Section 9 of the Act. Secondly, I am unable to see any conclusions in the said notice. It is not disputed by the learned counsel for the petitioner that notice must indicate the aspect on which the suo motu revision is taken up and notice merely indicates that mutation orders and pattadar pass books and title deeds prima facie appear to be not in accordance with Act and hence, the 2nd respondent proposed to examine the same by exercising suo motu revisional power. There is no doubt that the petitioner can defend the said mutation orders and pattadar pass books by taking all necessary pleas and contentions before the 2nd respondent. The petitioner also will have adequate opportunity of defending those orders and it is not as if the words mentioned in the show cause notice are the final conclusions. Unlike the case before the Hon'ble Supreme Court, on which the learned Senior Counsel has placed reliance in the aforesaid decision, it is evident from para '21' that definite conclusions were reached against the petitioner therein while issuing notice itself and in those circumstances, the Hon'ble Supreme Court was of the view that instead

of telling him the charges, the petitioner therein cannot be confronted with definite conclusions of the alleged guilt.

In para '31', the Supreme Court also cautioned that show cause notice cannot be read hyper-technically and it is well settled that it is to be read reasonably. Thus, it is not in dispute that the proposed action has to be indicated in the show cause notice. In applying those expressions, I do not think that the present impugned show cause notice is required to be interfered with by this Court at the threshold.

It is also not in dispute that the order of the 2nd respondent is always subject to judicial review and there is no need of apprehension in the mind of the petitioner that he will not get due and adequate opportunity. The petitioner is entitled to appear and show cause against the proposed notice and can rely upon all his contentions and only thereafter the 2nd respondent would pass appropriate reasoned order. Any prejudice to bypass the said procedure is neither evident nor discernable. Hence, no grounds exist to entertain the writ petition.

Accordingly, the writ petition is dismissed. No order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

VILAS V.AFZULPURKAR, J

Date: 23-09-2015

Prv

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.30880 of 2015

23-09-2015

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