

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.27652 of 2005

Date:04.03.2015

Between :

The District Collector, Chittoor District and
Another.

.... Petitioners

And

Thotamanchi Padmavathi w/o. Ramaiah,
rep.by GPA Shantilal Jain, s/o.N.Jughraj Jain,
D.No.9-3-149, Porla Street,
Tirupati, Chittoor District and others.

.... Respondents

This Court made the following :

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ORDER:

This writ petition, under Article 226 of the constitution of India is filed by the State challenging the Orders passed by the Settlement Officer, Director of Settlements and the Commissioner of Appeals, Office of the Chief Commissioner of Land Administration and the letter dated 23.03.2005 written by the Special Chief Secretary to Government and Chief Commissioner of Land Administration.

2. Briefly, the facts leading for consideration and disposal of the writ petition are as under:

The application under Section 11(a) of the Andhra Pradesh (Andhra Area) Estates (Abolition And Conversion Into Ryotwari) Act, 1948 (for short, 'the Act') filed by the first respondent herein, for grant of patta in 10 different extents of land in Sy.Nos.35/2, 77/P1, 80/P and 81/P of Mangalam Village, was partly allowed by order dated 25.01.1982. The Settlement Officer granted rythwari patta to an extent of 6 acres of land and declined the claim to an extent of 4 acres of land. The District Collector, Chittoor, filed revision before the Special Commissioner and Director of Settlements also initiated sue-motto enquiry in R.P.No.300/84/H1. Both the revisions are allowed by the Special Commissioner and Director of Settlements by his order dated 08.06.1999. Against these two orders, the first respondent herein filed revision before the Commissioner of Appeals. The said revision was allowed. Orders of Director of Settlements was set aside and restored pattas granted by the Settlement

Officer. Aggrieved thereby, the District Collector, Chittoor District, preferred the review before the Commissioner of Appeals. While so, the Chief Commissioner of Land Administration addressed letter dated 23.03.2005 advising the Government to prefer appeal against orders of Commissioner of Appeals. The Review is kept pending. Aggrieved thereby, this writ petition is instituted.

3 . The grievance in the writ petition is the Chief Commissioner of Land Administration erred in advising the State to prefer appeal against orders of Commissioner of Appeals, whereas the Commissioner of Appeals kept the review filed before him pending and the review has to be decided on its merits.

4. For the purpose of deciding the present issue, as to whether the advise of the Chief Commissioner of Land Administration to file an appeal without deciding the review filed by the State through the District Collector is valid, it is necessary to understand the provision in Section 7(1) (d) of the Act. It reads as under:

“7. Powers of control of the Board of Revenue:-

(1) The Board of Revenue shall have power –

- d) To cancel or revise any of the Orders, Acts or Proceedings of the Director or of any District Collector, including those passed, done or taken in the exercise of revisional powers.”

5. A plain reading of Section 7 (1) (d) of the Act, it is clear that the Revisional Authority is vested with power to review his

own decision. In terms of this provision, reviews are filed by the District Collector. Thus it cannot be said that once the orders are passed by the revisional authority, revisional authority is denude of the power to entertain the review. No precedent is brought to my notice, on the non-maintainability of review under Section 7(1) (d) of the Act.

6. While the revisional authority has not passed Orders on the review, the Commissioner of Appeals, who is controlling authority over the Commissioner of Appeals, advised the State to prefer an appeal. Such action is ex-facie illegal and contrary to the provisions of the Act. It amounts to transgressing into jurisdiction of Quasi-Judicial authority. It also amounts to rendering advice on legal course a party to a litigation should adopt. As seen from the provisions of the Act, no provision of appeal is provided against the Order passed by the revisional authority and remedy available is to seek review of earlier orders of the revisional authority. Thus, the letter of the Chief Commissioner of Land Administration dated 23.03.2005 is liable to be set aside.

7. As seen from the averments in the affidavit filed in support of the writ petition and as informed by the learned Government Pleader for Revenue that the review petition filed by the District Collector against the Order dated 28.03.2001 is still pending. Since the review petition is pending consideration before the revisional authority, it is premature to go into the legality and validity of the orders passed by the

revisional authority concerning the subject property.

8. While setting aside the proceedings of Chief Commissioner of Land Administration dated 23.03.2005, the matter is remitted to the revisional authority to consider the review filed by the State and pass appropriate orders as warranted by law, after affording due opportunity to all the parties including affording of personal hearing by due intimation of date of personal hearing well in advance. The parties are entitled to place all relevant documents in support of their claim. The entire exercise shall be completed within a period of three months from the date of receipt of copy of this order. Status quo as on today shall continue till the orders are passed by the revisional authority on the review filed by the petitioners.

9. Accordingly, the writ petition is disposed of. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.

P. NAVEEN RAO, J

March 04, 2015

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