

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.21667 of 2015

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ORDER:

Heard.

The petitioner is aggrieved by the order passed by the 2nd respondent in Rc.No.E1/2932/2015, dated 06-07-2015. The petitioner states that he is a landless poor person and he was assigned the land admeasuring Ac.4-95 cents in Sy.Nos.646 and 648 situated at Anuma Samudram Village, vide Patta No.F.Dis-34/1413, dated 25-02-2004 and he was also issued title deeds. The petitioner states that he raised lemon tress and cultivating paddy in the said land. While so, alleging that some persons lodged a complaint against the petitioner, the 2nd respondent passed the impugned order directing the 3rd respondent to resume the land admeasuring Ac.1-33 cents in Sy.No.648 on the ground that the petitioner has not cultivated the land and thereby, violated the conditions of assignment.

The present writ petition is filed questioning the said order interalia on the ground that it is violative of principles of natural justice as no notice was issued to the petitioner before passing the said order.

On 20-07-2015, the matter was adjourned to enable the learned Government Pleader to get instructions as to whether any notice was issued to the petitioner before passing the impugned order.

On 23-07-2015, learned Government Pleader has placed before this Court the notice, dated 16-06-2015, issued to the petitioner. However, there is no proof of service of the said notice on the petitioner. Therefore, the matter was adjourned to enable the learned counsel for the petitioner to verify the same.

Today, after verification, learned counsel for the petitioner states that no such notice was served on the petitioner nor he had any opportunity to show cause against the allegation that he is not cultivating the land in question. It is also stated

that the petitioner has been not only cultivating the land but he has been issued Khata No.652 in IB register.

Apparently, the impugned order is passed without serving any notice on the petitioner and without giving any opportunity of personal hearing. Moreover, with regard to the allegation of violation of conditions of assignment, appropriate competent authority is required to initiate action by issuing notice to the petitioner to enable him to submit explanation and thereafter appropriate reasoned order could have been passed. In the present case, it appears that directly the 2nd respondent has entertained the complaint of somebody else as mentioned in the impugned order under reference No.1 and issued the orders of resumption in respect of the land admeasuring Ac.1-33 cents in Sy.No.648. The impugned order, therefore, cannot be sustained and it is accordingly set aside. However, it is open to the competent authority to issue appropriate notice to the petitioner and comply with the principles of natural justice and then take appropriate action in accordance with law.

Accordingly, the writ petition is allowed. No costs.

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

VILAS V.AFZULPURKAR, J

Date: 31-07-2015

Prv

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.21667 of 2015

31-07-2015

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Prv