

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.15152 of 2015

ORDER:

Heard.

The petitioner claims that he was assigned the lands admeasuring Ac.0-42 cents in Sy.No.64/14, Ac.1-15 cents in Sy.No.64/15 and Ac.0-59 cents in Sy.No.68/11 situated at Komaragunta Village, Vedurukuppam Mandal, Chittoor District under landless poor person category. The petitioner states that he is in possession and enjoyment of the said lands and he was also issued pattadar passbooks and title deeds in respect of the said lands. It is stated that at the instance of the 6th respondent and the villagers stating that the assignment made in favour of the petitioner was on the mistake of fact, the proceedings were initiated by the 4th respondent and ultimately, the 2nd respondent examined the matter and passed an order, dated 22-08-2014, which is communicated to the 4th respondent holding that the assignment made in favour of the petitioner in the category of landless poor person was correct and hence, the provisions of BSO 15 (18) are not attracted, as there is no mistake of fact. While the said proceeding was in favour of the petitioner, it is stated that the villagers, whose claim was rejected, once again approached the 3rd respondent with the self-same request of cancellation of assignment made in favour of the petitioner. The 3rd respondent, being unaware of the orders of the 2nd respondent, endorsed on the said petition directing the 4th respondent to treat the petition as "assignment appeal for cancellation of DKT patta". As a sequence thereto, the 4th respondent has given the impugned notice, dated 27-01-2015 calling upon the petitioner to attend before the 4th respondent with all the records. Questioning the said notice, the petitioner filed the present writ petition alleging that the 4th respondent has no jurisdiction to entertain the appeal. He also questions the 3rd respondent's endorsement, as it is contrary to the orders of the 2nd respondent rejecting the mistake of fact as claimed earlier.

Learned counsel supports the said contentions of the petitioner by contending that the appeal filed on the basis of the Board Standing Orders is not maintainable.

At this juncture, however, since a notice is issued by the 4th respondent, I am not inclined to entertain the writ petition against the said notice particularly as the petitioner will have adequate opportunity before the 4th respondent to raise all his legal and factual contentions including reliance upon the order of the 2nd respondent, dated 22-08-2014. It may be true that the 3rd respondent made an endorsement on the villagers' representation without being unaware of the order of the 2nd respondent. Whether the appeal is maintainable and whether the appeal is otherwise untenable on merits, are the matters, which the 4th respondent is required to decide in the said appeal and, as such, the adjudication by this court is not called for at this stage.

The writ petition is, therefore, disposed of giving liberty to the petitioner to raise all his contentions as mentioned above before the 4th respondent and the 4th respondent shall consider and dispose of the appeal by a reasoned order and pending further orders in the said appeal, the petitioner shall not be disturbed and dispossessed from the lands in question.

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

VILAS V.AFZULPURKAR, J

Date: 02-06-2015

Prv

