

pTHE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.6101 of 2008

ORDER:

-

Heard the learned counsel for the petitioners and the learned Government Pleader for Revenue.

2. Questioning the proceedings, dated 11.03.2008, issued by the 3rd respondent-Tahsildar in cancelling the assignment pattas granted in favour of the petitioners, the present Writ Petition came to be filed.

3. Both the petitioners, who were doing coolie work, applied for grant of pattas under Indiramma Housing Scheme in the year 2007. After considering the applications, the 3rd respondent assigned Ac. 0.01 ¼ cents to the 1st petitioner and Ac.0.014 ¼ cents to the 2nd petitioner in survey No.963 of Madakalavaripalli vide Ref.B.No.903/07, dated 06.02.2008, and also delivered possession.

4. The averments in the affidavit also show that the petitioners filed O.S.No.52 of 2008 before Junior Civil Judge, Badvel, seeking permanent injunction restraining the defendants therein from interfering with their peaceful possession and enjoyment of the said lands. In the said suit, they filed I.A.No.120 of 2008 seeking temporary injunction in their favour. It is further stated that basing on the representation of the residents of Gandhinagar, the Gram Panchayat passed a resolution on 26.03.2003, wherein a proposal was made to construct Anganwadi school in the said, lands, which were unused for a long time. Later, the impugned order came to be passed cancelling the pattas granted in favour of the petitioners.

5. Learned counsel for the petitioners submitted that no notice was issued prior to cancellation of pattas and hence prays to set aside the impugned proceedings.

6. A counter came to be filed stating that the lands in question were proposed for construction of Anganwadi centre and by mistake it was assigned to the petitioners; that the 3rd respondent proposed to allot house plots to the petitioners in another survey number, but they refused for that proposal; that when the respondents tried to serve notices on the petitioners, they refused to take notice and as such, the same were affixed on the doors of houses the petitioners.

7. By order, dated 24.03.2008, this Hon'ble Court in W.P.M.P.No.7944 of 2008 granted interim direction.

8. The main ground urged by the counsel for the petitioners is that no notice was issued prior to passing of the impugned order. The averment in the counter is to the effect that when the respondent authorities tried to serve notices on the petitioners, they refused to take the notices and as such the same were affixed on the doors of houses of the petitioners.

9. The petitioners were granted pattas on 06.02.2008 and the respondent authorities are alleged to have affixed notice dated 20.02.2008 on the doors of houses of the petitioners. But, as seen from the record, the impugned order, dated 11.03.2008, came to be passed by the Tahsildar pursuant to the oral instructions given by the Joint Collector, Kadapa District on 07.03.2008. When the order is passed basing on the instructions of Joint Collector, dated 07.03.2008, the question of issuing notice on 20.02.2008, affixing the same to the doors of the petitioners would not arise. Therefore, the order of cancelling the pattas granted in favour of the petitioners is liable to be set aside since neither the respondent authorities have issued any notice nor did they made any attempt to serve the notice on the petitioners. It appears to be a case where without serving any notice on the petitioners, the impugned order came to be passed thereby violating the principles of natural justice. Hence, the impugned proceedings are liable to be set aside.

10. Accordingly, the Writ Petition is allowed setting aside the proceedings, dated 11.03.2008 issued by the 3rd respondent, leaving it open to the respondents to

follow due process of law before taking any action against the petitioners. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

NOVEMBER 18, 2015

YVL