

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH

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WRIT PETITION No.38297 of 2015

BETWEEN

Allampati Seetha Rami Reddy.

... PETITIONER

AND

The State of Andhra Pradesh, Rep. by its Principal Secretary, Revenue Department, Secretariat, Hyderabad and others.

...RESPONDENTS

DATE OF JUDGMENT PRONOUNCED: 02.12.2015

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

1. Whether Reporters of Local newspapers may be No allowed to see the Judgments?
2. Whether the copies of judgment may be marked No to Law Reporters/Journals?
3. Whether Their Ladyship/Lordship wish to see the No fair copy of the Judgment?

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ORDER:

Heard.

2. Petitioner claims that he was granted a patta to the extent of Ac.3.00 cents in Sy.No.646 and Ac.1.95 cents in Sy.No.648 situated in Hanuma Samudram Village, A.S. Peta Mandal, SPSR Nellore District vide proceedings No.F.Dis-34-1413 dated 25.02.2004. Petitioner also states that his name is recorded in the revenue records and pattadar pass book and title deeds were already issued and that he is in possession and cultivating the said land.

3. While so, it is stated that petitioner was given a notice dated 08.09.2015 seeking to resume the land to the extent of Ac.1.33 cents in Sy.No.648 and in pursuance thereof, the impugned order of resumption is passed by the District Collector on 18.10.2015, primarily, on the ground that the petitioner did not offer any explanation to the show cause notice. The present writ petition is filed by the petitioner specifically asserting that notice dated 08.09.2015 was duly replied to by him by personally appearing before the second respondent on 26.09.2015 along with a detailed representation enclosing as many as 20 documents including photographs of the existing crops. However, straightaway the impugned order was served on the petitioner directing the third respondent to resume possession of Ac.1.33 cents of land.

4. After noticing the aforesaid aspects, this Court, on 25.11.2015, while ordering notice

before admission, directed that the resumption as ordered under the impugned order shall not be given effect to.

5. The facts of the case further reveal that earlier the petitioner had approached this Court by WP.No.21667 of 2015 questioning the earlier resumption proceedings dated 06.07.2015 on the ground that it was issued without notice to the petitioner. The said ground having been found sustainable, the said writ petition was allowed on 31.07.2015 leaving it open to the competent authority to give appropriate notice to the petitioner and comply with the principles of natural justice. In pursuance of that order, the show cause notice dated 08.09.2015 was issued to the petitioner and as stated above, petitioner has already filed his explanation together with documents. Petitioner also questions the basis of the impugned order alleging as if that petitioner has not cultivated Ac.1.33 cents.

6. Learned counsel for the petitioner contends that the entire land is under cultivation and that the petitioner has produced photographs along with his explanation as proof of cultivation. However, neither the explanation nor the documents are considered.

7. Learned Government Pleader, who has received instructions, fairly states that the explanation of the petitioner was received but since the same was not satisfactory, the resumption order was passed.

8. The statement of the learned Government Pleader cannot be accepted, as the impugned order specifically states that the petitioner has not offered any explanation to the show cause notice, which is factually incorrect. In view of that, the impugned order is, obviously, issued in ignorance of the explanation submitted by the petitioner together with the documents. Hence, the impugned order is set aside. The matter shall stand remitted to the second respondent to reconsider the matter by dealing with the explanation and documents filed by the petitioner and pass appropriate orders in accordance with law.

The writ petition is allowed. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

December 2, 2015

DSK