

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE S.V. BHATT

WRIT APPEAL No. 839 OF 2015

02-09-2015

Between:

Basavani Bhogeswara Rao

... Appellant

And

Mantri Sambaiah (Died per LRs) and others

... Respondents

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HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE S.V. BHATT
-
WRIT APPEAL No. 839 OF 2015

PC: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

This writ appeal is directed against the order dated 24-04-2015 passed in a batch of writ petitions including Writ Petition No.6304 of 2003 in which the appellant was respondent No.7.

Sri B. Venkat Rama Rao, learned counsel for the appellant confines his challenge to direction No. 7 of the directions issued by learned single Judge in the concluding paragraph. Direction 7 reads thus:

“The petitioners in W.P.Nos.6304 of 2003 and 21236 of 2001 were assigned pattas. Though, pattas were cancelled to some other persons, in so far as petitioners in these two writ petitions are concerned their pattas are not cancelled. In fact so far as petitioners in W.P.No.6304 of 2003 are concerned they were also given possession but subsequently, the said possession was withdrawn. Pending finalisation of the issue, the pattas already granted in favour of the petitioners in the above two writ petitions shall not be cancelled. After the finalisation of eligibility, if the petitioners are also identified as eligible for such assignment, possession shall be granted to them in accordance with the pattas already granted in their favour.”

Sri Venkat Rama Rao submitted that the learned Judge has recorded a finding insofar as the petitioners in Writ Petition No. 6304 of 2001 are concerned that their patta was not cancelled. This finding according to learned counsel for the appellant is contrary to the record. In support of his contention, he invited our attention to

report of the Revenue Divisional Officer dated
20-08-1999 and in particular the following entry:

“To cancel the pattas granted in favour of nine members of Society since they are non residents and the land is not under their occupation. The local nine persons who have occupied the land are eligible for assignment as they do not own any land and to regularise their encroachments.

In the reference 4th cited, the Mandal Revenue Officer, Bantumilli reported that he issued notices to 9 members of Society, who were assigned the land earlier. In response to the notice given to them they have given explanation requesting not to cancel their pattas and resumption orders were issued in Mandal Revenue Officer's office, Bantumilli Lr.No.Rc-B.1280/90, dt. 16-8-99 to 9 members for violation of conditions of assignment.

The following are the details.

1. Mallula Musaliah
2. Paripala Chinna Appanna
3. Mulaventi Ramulu
4. Mamidi Ramulu
5. Done Krishna Murthy
6. Mantri Kumari
7. Mantri Sambaiah
8. Mantri Nageswara Rao
9. Perikella Venkayamma

He also submitted that public notice was issued in the village informing the villagers to file individual applications for grant of assignment and the list of beneficiaries is under the processing and it was finalised shortly.”

On the basis of the above entry, it was submitted that patta in favour of the petitioners in Writ Petition No.6304 of 2001 was also cancelled and resumption orders were also issued as indicated therein. On the other hand, it was submitted that apart from the entry, there is absolutely nothing on record to contend that the finding recorded by the learned Judge is wrong. In view thereof, when we made a suggestion to learned counsel for the parties that the issue whether patta in favour of the petitioners in Writ Petition No. 6304 of 2001 was cancelled can also be kept open to be considered in the

enquiry, they both agreed for the same. Hence, we dispose of the writ petition by the following order:

“The District Collector while holding an enquiry in pursuance of the order in W.P.No.6304 of 2003 shall consider whether patta granted in favour of the petitioners in Writ Petition No. 6304 of 2003 was in fact cancelled or not, and on the basis of his finding on the issue, may proceed to pass further order in the light of the observations made in the impugned order. It is open to the parties to place their contentions on record in support of their claim, including the contention whether the cancellation, if any, was passed in accordance with law. All contentions are accordingly kept open. With this slight modification, we maintain the order passed by learned single Judge. In other words, it shall remain unaltered, except the modification as indicated above.”

Writ appeal is accordingly disposed of.

Miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

02-09-2015

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