

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

* * *

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

WRIT PETITION No. 40127 OF 2015

BETWEEN

Kothapalli Suryanarayana

... PETITIONER

AND

The State of Andhra Pradesh, rep. by its Principal Secretary and others

...RESPONDENTS

Date of Order pronounced: 10.12.2015

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ORDER:-

Heard.

2. Petitioner questions the order passed by the Joint Collector and Additional District Magistrate, Krishna, Machilipatnam, in R.Dis.E3/2382/2012 dated 25.11.2015, whereby the assignment patta granted to the petitioner's ancestor was held to be not genuine and consequently, the Tahsildar, Gudivada, was directed to submit proposal for cancellation of the said assignment patta.

3. Learned counsel for the petitioner contended that in spite of directions of this Court in W.P.No.33832 of 2013 dated 26.11.2013, whereby the

Tahsildar was required to pass an order after notice and enquiry, no orders were passed by the Tahsildar and he merely sent a report to the Joint Collector, who later had passed the impugned order.

4. Learned Government Pleader for Revenue relies upon BSO 15 Section II(3) under which the Tahsildars and the Deputy Tahsildars are empowered to pass resumption orders in case of breach of conditions granted and the present case being in the nature of assignment itself having been found not genuine, the Joint Collector has the power in terms of BSO 15 P.15. Therefore, learned Government Pleader submits that since the impugned order is a original decision in Darkasth case passed by the Collector, petitioner has the remedy to prefer an appeal (CCLA) before the Board.

5. I find substance in the contention of the learned Government Pleader as BSO 15 P.15 deals with original decision of the Tahsidlar, the Revenue Divisional Officer, or the Collector, as the case may be, against which an appeal is allowed within the time prescribed.

6. Since the impugned order is the original decision of the Collector/Joint Collector, an appeal (CCLA) lies within 40 days to the Board and in view of the said efficacious alternative remedy available to the petitioner, there is no reason why petitioner cannot avail the same and equally no reason to bypass the said remedy and entertain the present writ petition.

7. To the extent of the contention of learned counsel for the petitioner based upon directions of this Court in the earlier writ petition, referred to above, it is evident that the implication of BSO 15 as referred to above were not brought to the notice of this Court at that time and since the original order impugned therein was passed by the Tahsildar, the same was set aside and the matter was remitted. However, in the case on hand, since the order impugned is the one passed by competent authority, petitioner is at liberty to avail the appellate remedy as discussed above.

With the liberty aforesaid, writ petition is disposed of.

As a sequel the miscellaneous applications, if any, shall stand closed. There

shall be no order as to costs.

Registry shall return the original impugned order after getting it substituted by an attested true copy to be retained in the file of writ petition.

VILAS V. AFZULPURKAR, J

December 10, 2015
LMV