

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.12719 OF 2012

ORDER:

The petitioner filed revision against the orders dated 13.04.2011 passed by the RDO before the 1st respondent under Section 12 A of the A.P.Land Encroachment Act, 1905 (*for short 'the Act'*) but the 1st respondent referred the same to the 2nd respondent-The District Collector, to dispose of the same and the 2nd respondent dismissed the revision on 08.08.2011. The case of the petitioner is that it is the 1st respondent who has to deal with the revision under section 12 A of the Act and on the said ground he assails the impugned order dated 08.08.2011 in the present writ petition.

Sri Vedula Venkata Ramana, learned Senior counsel for the petitioner submits that the first respondent is only competent to deal with revision filed by the petitioner and he has no power to refer the same to the 2nd respondent-District Collector and as such, the order passed by the 2nd respondent is without jurisdiction.

Learned Assistant Government Pleader by referring to Section 10 of the Act submits that the District Collector has power to revise any decision or order passed by the Deputy Tahsildar or Collector under the Act. He also submits that the

definition of Collector under Section 1 A of the Act includes Deputy Collector, Sub Collector and an Assistant Collector. In this case the impugned order is passed by the District Collector as the District Collector has power to revise the same, under Section 10 of the Act.

Section 10 of the A.P.Land Encroachment Act, 1905 reads as follows:

“10. Appeal:- (1) an appeal shall lie (a) to the Collector from any decision or order passed by a Tahsildar or Deputy Tahsildar under this Act and (b) to the District Collector from any decision or order of a Collector passed otherwise than on appeal and (c) to the Board of Revenue from any decision or order of a District Collector passed otherwise than on appeal. There shall be no appeal against a decision or order passed by the Collector or the District Collector on appeal, but the District Collector may revise any decision or order passed by a Deputy Tahsildar or Collector under this Act, and the Board of Revenue may revise any decision or order passed by any officer under this Act.”

Section 12-A of the Act reads as follows:

“12-A.Power of Government to call for records and pass orders:- (1) The State Government may, in their discretion, at any time, either *suo motu* or on an application made to them, call for and examine, the records relating to any decision or order passed or

proceeding taken by any authority or officer subordinate to them under this Act for the purpose of satisfying themselves as to the legality or propriety of such decision or order, as to the regularity of such proceeding and pass such order in reference thereto as they think fit.

(2) The State Government may stay the execution of any such decision, order or proceeding pending the exercise of their powers under sub-section (1) in respect thereof (Instd. by Section 10 of the A.P. Land Encroachment (Extn. and Admt.) Act, 1958 (A.P. Act XXV of 1958).”

It is found from the record that the petitioner filed revision under Section 12 A of the Act before the 1st respondent, but when the 1st respondent referred the matter to the 2nd respondent-District Collector, petitioner appeared before the 2nd respondent and filed written arguments. He participated in the proceedings before the 2nd respondent and the 2nd respondent passed the impugned order. Aggrieved by the said order, present writ petition is filed. But in the writ affidavit the petitioner has not specifically raised the plea that the 2nd respondent has no jurisdiction to deal with the revision. Even in the written arguments, filed by the petitioner before the 2nd respondent, which were produced before this Court, no such specific plea is raised by the petitioner. Section 10 of the Act gives the power to the District Collector

to revise any decision or order passed by the Deputy Tahsildar or Collector under this Act. Admittedly, revision is filed against the orders passed by the Collector. At the time of proceedings before the 2nd respondent the petitioner would have raised the plea of maintainability before the 2nd respondent. Having participated in the revision proceedings before the 2nd respondent, now, he cannot challenge the said proceedings.

In view of the above, I do not see any reason to entertain the writ petitioner. Accordingly, the writ petition is dismissed. However, it is open for the petitioner to avail the remedy under Section 12-A of the Act. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

21.10.2016
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