

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.35375 of 2012

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ORDER:

This petition is filed for a writ of *Certiorari*, calling for the records relating to and in connection with the impugned order in Appeal No.1873/2010, dated 16.04.2011 and quash the same as illegal and arbitrary and consequently cancel the assignment made in favour of unofficial respondents.

This case of the petitioner is that petitioner's father-in-law, M.I.Papasaheb, was the lease holder of house site to an extent of Ac.0.08 cents, situated in survey No.1792/2, near Balaji Theatre, Eluru, West Godavari District for a period of 99 years; that originally lease was granted in the year 1958, and during his life he made a representation to the Government on 26.02.1984 for assignment of the said land in his favour to construct a house; and that in response to the said letter, the Government has issued Memo No.692/B2/84-3, dated 16.04.1984, stating that the representation regarding assignment of the land in TS.No.1792/2 to an extent of Ac.0.08 cents of Eluru town has been examined in consultation with the District Collector, Eluru and that the District Collector reported that the said land in question is required for public purpose and as such, the request of the petitioner's father-in-law was not conceded. It is also stated that after the death of petitioner's father-in-law, petitioner made several representations for assignment of the said land which were not considered by the 4th respondent, on the ground that the A.P.Electricity Board required the said land and that it is drain poramboke, no patta should be given. Having said so, the 4th respondent illegally assigned the said land in favour of the official respondents 5 and 6, ignoring the petitioner's request. Then,

petitioner filed WP.No.19513 of 2005 and the same was disposed of on 03.10.2005, giving liberty to the petitioner to file appeal before the competent authority. Thereafter the petitioner filed appeal before the 2nd respondent. Meanwhile, the petitioner also filed WP.No.26169 of 2007 for not disposing the appeal filed by her on 06.07.2006 and the same was disposed of on 17.06.2008, directing the 2nd respondent to consider and dispose of the appeal filed by the petitioner. In pursuance of the same, the 2nd respondent-RDO, Eluru, dismissed the appeal on 16.04.2011. Challenging the said order passed by the appellate authority, present writ petition filed alleging that the said order is illegal and without reasons.

In this case, a perusal of the impugned order goes to show that at the time of disposing the appeal, the 2nd respondent has issued notices to the petitioner herein as well as assignees and the matter was also referred to Tahasildar, Eluru who after physical verification found that only an extent of 0.04 cents is assigned to the unofficial respondents in the year 1993 and the remaining land has been utilized for public purpose by forming drain and road. Accordingly, the land was assigned to the unofficial respondents in the year 1993 after verifying their eligibility and occupation. In the writ affidavit, except stating that the assignment in favour of unofficial respondents is illegal, nothing was stated as to how the assignment in favour of unofficial respondents is invalid. The petitioner has not substantiated how the assignment granted in favour of unofficial respondents is illegal. The appellate authority also found that the assignment is made as long back as in the year 1993 and the petitioner filed appeal in the year 2006, after a gap of 13 years. The appellate authority has considered the aspect in proper perspective and dismissed the appeal. More so, the gap of 13 years in filing the appeal before the competent authority is also not

explained by the petitioner. No evidence is filed even in the writ petition stating that the subject land is allotted to the petitioner's father-in-law, earlier. Further, it is also not known what is the legal right violated in assigning the subject land to the unofficial respondents. In view of the same, I do not see any merit in the writ petition.

Accordingly, the writ petition is dismissed. 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

18.02.2016
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