

HON'BLE SRI JUSTICE S.V. BHATT

WRIT PETITION No.4033 OF 2012

ORDER :

Petitioner prays for Mandamus declaring the action of 2nd respondent in canceling DKT Patta No.251/94 dated 25.09.1984, as illegal, arbitrary and violating principles of natural justice.

The subject matter of writ petition is agricultural land in an extent of Ac.4-98 cents in Survey No.865/2 in Kitragunta Village, Bogolu Mandal, SPSR Nellore District.

The 2nd respondent on 25.09.1984, assigned the subject matter of the writ petition in favour of one Y.Ramulu. The petitioner claims to be the daughter of Y.Ramulu/assignee. Respondents 3 to 5 herein are the legal heirs of Y.Ramulu. The undisputed and admitted circumstance is that Y.Ramulu died on 24.08.2001. 2nd respondent issued proceedings RCB No.208/04 dated 06.09.2004 cancelling assignment dated 25.09.1984. The 2nd respondent from the proceedings dated 06.09.2004, it appears, cancelled the assignment of Y.Ramulu on the ground that the subject matter of the writ petition was not brought under cultivation within the condition in this behalf. Proceedings further show that the efforts of 2nd respondent to serve the notice either on the assignee or his legal heirs were not successful. A reference is made with regard to substituted service of notice on 17.08.2004. By reference to these circumstances the assignment dated 25.09.1984 has been cancelled.

I have with the assistance of learned counsel appearing for the parties perused the proceedings dated 06.09.2004 and also the representation made by the wife of assignee on 21.03.2005 for recognition of the heirs of assignee in Revenue Records. I am of the

view that the proceedings dated 06.09.2004 are against dead person. The reference to the efforts of 2nd respondent to serve notice on the legal heirs do not appear to be correct or probable and borne out by the record, for if the 2nd respondent had the details of legal heirs and the 2nd respondent was not in a position to serve notice on the legal heirs, the notices would have gone in the name of legal heirs and order would have also been passed against the legal heirs of original assignee. As already noted, the proceeding was initiated against dead person and concluded against dead person. On this short ground that the cancellation being void and violative of principles of natural justice, the writ petition is ordered and the proceeding dated 06.09.2004 is set aside. No order as to costs.

Miscellaneous petitions if any pending shall stand closed.

S.V. BHATT, J

Date:18.07.2016

Stp

