

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.19386 of 2011

ORDER:

The case of the petitioner is that he worked in the armed forces (Naval) and he was allotted an extent of Ac.2-53 cents in Sy.No.616-A1 of Havaligi Village, Vidapanakal Mandal, Anantapur District way back in the year 1996. The petitioner fulfilled all the formalities and the 2nd respondent collected amounts from him. In the absence of petitioner, his brother, impleaded 3rd respondent cultivated the lands on his behalf. The petitioner has spent huge amounts for development of the land. The 2nd respondent issued notice to the petitioner on 06-05-2011 calling for the explanation why allotment made in his favour should not be cancelled. The petitioner has given explanation to the same. But the 2nd respondent relying on the directions of the 1st respondent in D.Dis.No.1758/2009/D2, dated 12-05-2010 passed the impugned order in Rc.No.257/A/2009, dated 25-05-2011 cancelling the allotment made in favour of the petitioner. Aggrieved by the same, the present writ petition is filed.

Counter affidavit is filed by the 2nd respondent admitting that the subject land in the writ petition is allotted to the petitioner under Ex-servicemen quota. But the petitioner is not cultivating the said land and his

brother G.Lepakshi Reddy, who is impleaded as 3rd respondent in the writ petition is cultivating the land and that the petitioner subsequently got a job in State Bank of India, Bellary of Karnataka State and the land was alienated to his brother i.e.the 3rd respondent through unregistered sale and he has been cultivating the same. After verifying the records, the allotment was cancelled. It is also stated that the petitioner has disposed of the said land in favour of his son G.Sreenivasa Reddy through a gift deed dated 09-03-2009 and pattadar passbooks were issued to his brother. The land was resumed on 25-05-2011 after following due procedure and notices could not be served on the petitioner and hence, substituted service was affected.

Counter is also filed by the 3rd respondent-implead petitioner. Admittedly, the petitioner worked in the army and thereafter as Manager in Syndicate Bank. The 3rd respondent further admitted allotment of land in favour of the petitioner in the year 1976 and it is also asserted that he is in possession of the said land and sought for dismissal of the writ petition.

Heard learned counsel for the petitioner and learned Assistant Government Pleader for Revenue for respondents 1 and 2 and learned counsel for the respondents 3 and 4.

Admittedly, allotment was made in favour of the petitioner under Ex-servicemen quota in the year 1976. It is the case of the petitioner that notice was also issued to him on 06-05-2011 alleging violation of conditions of allotment. Though it is asserted by the respondents that the petitioner filed explanation to the same, there is no reference of the same in the impugned order. It is not denied in the counter that the petitioner filed any explanation. Even the counter of respondents 2 and 3 goes to show that no allotment is made to the respondent No.3 as on today. But it is only stated that the pattadar passbooks were issued in his favour. This Court also suspended the impugned order on 20-07-2011. It is not known on what basis, the pattadar passbooks were issued to the respondents 3 and 4. The impugned order also goes to show that they were issued pattadar passbooks basing on the directions issued by the 1st respondent, who is the appellate authority. The allotment was made in the year 1976 and notice was issued to the petitioner in the year 2011. There is no reference to the explanation filed by the petitioner to the show-cause notice and denial about receipt of the same in the impugned order.

Without going into the other aspects of the matter, the impugned order is set aside on the ground of violation of principles of natural justice.

Accordingly, the writ petition is allowed. The respondent No.2 is directed to issue notice to the petitioner and respondent No.4 and after considering their explanations pass appropriate orders in accordance with law. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

20-10-2016
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