

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.1038 OF 2011

ORDER :

It is the case of the petitioner that petitioner's society was allotted land to an extent of Acs.8.76 cents in Sy.No. 177/3A and 177/3B, situated at Jaggampeta Village, Jaggampeta Mandal, East Godavari District. That petitioner's society was issued notice dated 13.12.2010 by the 2nd respondent asking the petitioner to explain within (3) days as to why the allotment of land made to the petitioner in respect of Acs.5.00 should not be resumed. It is stated that petitioner received notice on 15.12.2010 and made application on 18.12.2010 seeking 15 days time for filing the explanation. But the petitioner received impugned proceedings dated 16.12.2010, on 22.12.2010 canceling the allotment of land made to the petitioner and 3rd respondent was directed to take possession of the land. Aggrieved by the same, present writ petition is filed.

Counter affidavit is filed by the respondents stating that since land allotted to the petitioner was not utilized for the purpose it was allotted, notice was issued and allotment was cancelled and possession of land in respect of Acs.5.00 was taken on 18.12.2010.

Heard learned counsel for the petitioner and learned Assistant Government Pleader for Revenue.

This Court granted order of *status quo* on 25.01.2011. A perusal of impugned notice dated 13.12.2010 goes to show that

only 3 days time was granted to the petitioner to file explanation. As per the assertion of the petitioner, it was served on 15.12.2010 by giving 3 days time. The impugned order of resumption was passed on 16.12.2010, which is within one day from the date of service of notice dated 13.12.2010. Granting of three days time itself is inadequate, which goes to show that petitioner was not given proper opportunity for filing explanation in defending his case. Though the petitioner made application 18.12.2010 seeking 15 days time for filing explanation, before that date, the impugned order was passed. In view of the same, without going into the merits of the case, the impugned order is liable to be set aside on the ground of violation of principles of natural justice.

Therefore, the impugned proceedings dated 16.12.2010 is set aside and the matter is remitted back to the 3rd respondent. The 3rd respondent shall pass orders after issuing notice to the petitioner and after giving an opportunity of hearing. Till then, interim order of status quo granted on 25.01.2011 shall continue.

Accordingly, this writ petition is allowed to the extent indicated above. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, shall stand closed.

A.RAJASHEKER REDDY, J

03.11.2016
kvs

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