

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

W.V.M.P.No.1560 of 2012

In

W.P.No.2321 of 2012

And

WRIT PETITION No.2321 of 2012

ORDER:

This Writ Petition is filed to declare the action of respondents in cancelling the pattas issued to petitioners in Sy.No.1630 in Potupalem Village, East Gudur, S.P.S.R. Nellore District of extent Ac.3.00 each vide patta Nos.89/1405, 90/1405 and 91/1405 dt.10-07-1996 and seeking direction to respondents to issue pattadar pass books and title deeds in favour of petitioners in respect of the above lands.

2. The petitioners belong to Scheduled Caste community and are landless poor persons. They applied for assignment of agricultural land in 1995. Certain extents of land found surplus under A.P.Land Reforms (Ceiling of Agricultural Holdings) Act, 1973 in Sy.No.1630 situated in the above village were allotted to the petitioners under the above patta numbers on 10-07-1996. Petitioners applied to the 2nd respondent to issue pattadar pass books in respect of these lands and they were issued to them.

3. Thereafter 2nd respondent, without conducting any

enquiry and without giving any notice to the petitioners, submitted a report behind the petitioners' back stating that total extent of Ac.9.38 cents in Sy.No.1630 is patta land, which was surplus land under the Ceiling Act and it was distributed to 9 S.C. and S.T. beneficiaries; that these beneficiaries did not cultivate the land in the Adangals for Fasli 1420; and requested the 2nd respondent to cancel the pattas granted to the petitioners.

4. Behind the back of the petitioners, the 2nd respondent passed an order in Case No.D.Dis. (E8)3118/2011 on 24-09-2011 cancelling the pattas granted to them.

5. Petitioners contend that the order passed by 2nd respondent dt.24-09-2011 cancelling the assignments made to them earlier is in violation of principles of natural justice since the petitioners were not put on notice prior thereto and their objections had not been sought for the proposed cancellation of the pattas.

6. Taking this plea, they also filed a Revision before the 1st respondent.

7. The petitioners filed a report before the 1st respondent on 02-01-2012 enclosing the notarized affidavits of the then Tahsildar Pottela Panchalaiah stating that he did issued D-Form patta to the petitioner. They

also filed copy of adangal which shows their names as the persons in possession and sought stay of orders passed by the

2nd respondent. Admittedly, the 1st respondent did not pass any orders on the stay application till date.

8. Petitioners therefore filed this Writ Petition and sought for suspension of the order dt.24-09-2011 passed by the 2nd respondent on the ground that it is illegal, violates principles of natural justice and is arbitrary and to direct the respondents to issue pattadar pass books and title deeds to the petitioners.

9. Learned counsel for petitioners reiterated the said submissions.

10. On 08-02-2012, this Court granted *status quo* to be maintained.

11. W.V.M.P.No.1560 of 2012 was filed by respondents to vacate this order. In para-4 of the counter affidavit, while denying the allegations of the petitioners that the 2nd respondent had not conducted any enquiry and had not given any notice to petitioners, it is stated that a notice dt.Nil was issued to the petitioners by the 2nd respondent and thereafter matter was adjourned and finally the order was passed. It is not stated by respondents when notice was issued to petitioners and when it was served on

petitioners. Admittedly, the impugned order does not state that any notice was issued or served on petitioners. No material is placed by respondents before this Court to show that the notice issued by 2nd respondent to petitioners was served on petitioners.

12. Although learned Government Pleader for Assignment appearing for respondents stated that notice was issued to the petitioners by the 2nd respondent before passing the impugned order, in the absence of any material placed to establish the said fact, and in view of the fact that the order passed by the 2nd respondent himself does not state that any such notice was issued to petitioners, the order passed by 2nd respondent on 24-09-2011 deserves to be set aside on the ground that it is passed in violation of principles of natural justice. It is accordingly allowed and W.V.M.P.No.1560 of 2012 is dismissed.

13. Although a Revision is said to have been filed by petitioners before the 1st respondent on 02-01-2012, no orders of interim nature or final nature were passed in that Revision by the 1st respondent till date. It is settled law that a remedy of Revision is not an effective alternative remedy and existence of such remedy of revision does not bar the jurisdiction of the High Court to entertain a Writ Petition under Article 226 of the Constitution of India,

particularly when there is gross injustice as in this case
(**Collector of Customs and Excise, Cochin and others**
Vs. M/s.A.S.Bava^[1] a n d **State of Tripura Vs.**
Manoranjan Chakraborty and others^[2]). Therefore, the
fact that the said Revision is pending before the 1st
respondent cannot be a ground not to entertain the Writ
Petition particularly when the 1st respondent has done
nothing in the said Revision for almost 4½ years.

14. Therefore the Writ Petition is allowed and the order
dt.24-09-2011 in Case No.D.Dis.(E8).3118/2011 is set
aside. However, liberty is granted to respondents to take
fresh proceedings against the petitioners subject to
respondents issuing show cause notice to petitioners with
supporting documents, giving reasonable opportunity to
the petitioners to submit explanation to such show cause
notice within eight (08) weeks from the date of receipt of
such notice, and then to pass appropriate orders in
accordance with law.

15. The Writ Petition is allowed with the above
directions. No costs.

16. As a sequel, the miscellaneous petitions, if any
pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 21-06-2016

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[\[1\]](#) AIR 1968 SC 13

[\[2\]](#) (2001) 10 SCC 740