

THE HON'BLE SRI JUSTICE PRAVEEN KUMAR

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WRIT PETITION No. 17043 of 2016

ORDER:

Heard learned counsel for the petitioner, Government Pleader for Social Welfare and Government Pleader for Revenue.

The present writ petition came to be filed seeking issuance of writ of mandamus declaring the proceedings of the 1st respondent in Letter No.113957/TW.LTR.1/2015, dated 22.04.2016 as illegal, arbitrary and violative of principles of natural justice.

The facts in issue are as under:

The petitioner herein claims himself to be the owner of land admeasuring Ac.1.58 cents in R.S.No.16/2 and Ac.8.91 cents in R.S.No.17/1 of Seetaramanagaram Village, Buttaigudem Mandal, West Godavari District. It is his case that the said land was originally purchased by his father from one Pokala Dharmaiah through a possessory agreement of sale dated 24.05.1969. As the said land is situated in Agency area of West Godavari District, the Special Deputy Tahsildar, K.R.Puram, lodged a complaint before the Special Deputy Collector under Section 3 (2) (a) of Regulation 1/70 against the father of the petitioner stating that the father of the petitioner being a non-tribe is not entitled to possession of the same. During the course of enquiry the father of the petitioner appeared before the Special Deputy Collector setting out his defence. However, the Special Deputy Collector passed an order of eviction in R.S.No.16/2. Aggrieved by the same, the father of the petitioner preferred an appeal vide SRA No.10 of 1993 and 19/1990. Pending appeal, the father of the petitioner died on

12.02.2006 and the said appeals were dismissed on 04.07.2008. It is the case of the petitioner that the dismissal of the appeals was never informed to the petitioner or to any of his family members. While things stood thus, in the month of October, 2015, the Tahsildar, Buttaigudem intimated the petitioner about the dismissal of the appeals preferred by the father of the petitioner. The case of the petitioner is that on coming know about the same, he obtained certified copies and preferred a revision before the first respondent, which was rejected on 22.04.2016 on the ground that of delay in preferring the revision. Challenging the same, the present writ petition came to be filed.

Though the matter underwent number of adjournments no counter is filed on behalf of the respondents. However, the arguments advanced by the counsel appearing for the respondents would show that there is no illegality or impropriety in the order passed by the revisional authority.

Learned counsel for the petitioner mainly urged that the order is bereft of any reasons and as it came to be passed without hearing the petitioner, the same is liable to be set aside. The fact of petitioner being un-heard by the revisional authority is not in dispute. Though in the grounds of revision the petitioner specifically claimed to give a personal hearing the revisional authority failed to hear the petitioner.

Issue identical to the case on hand came up for consideration before a Division Bench of this Court in ***G.Varalakshmi v. K.Pullamma (died) and others***^[1] wherein a Division Bench of this Court while dealing with the said aspect held as under:

“The order does not consider any of the contentions raised in the revision, does not refer either to the facts of the case or the contentions raised by the petitioner on the memorandum of revision petition or the opinions of the original authority and the first appellate authority muchless consideration of the same. It is well settled by catena of decision of the Court that the quasi-judicial authority should record its findings and take decisions on a due and critical consideration of the factual and legal issues raised before them. It is true that an appellate or a revisional or reviewing authority, if it concurs with the finding recorded and the opinion formed by the lower authority, it need not give separate detailed reasons for its decision. Nevertheless, even in such a situation, the order that may be made by the appellate or reviewing or revisional authority should reflect convincingly due application of mind on the part of such authority. The order of the Government impugned in the writ petition does not reflect application of mind on the part of the Government.

It is a fact that the petitioner sought for personal hearing and there is nothing to show that particular request of the petitioner was considered by the Government and for some good and sound reasons, it refused to grant personal hearing. Be that as it may, having regard to the long history of the case and facts involved and the legal issues to be thrashed out in the proceeding, the request for personal hearing could not be termed as an unreasonable request on the part of the writ petitioner.”

Similarly in W.P.No.18711 of 2006 a learned Single Judge of this Court while dealing with the issue of passing an order without hearing, observed as under:

“Since the order does not contain any reason, without going into merits of the case this Court is considered to set aside the Memo No.12649/F1/90-1 dated

26.04.1993 and remanding the matter for fresh consideration in accordance with law, after hearing the parties concerned, within a period of six months from the date of receipt of a copy of the order.”

As stated earlier, the impugned order came to be passed by the revisional authority without hearing the petitioner. It is true that the revision has been filed with an abnormal delay. But even for disposal of the revision on the ground of delay, the same requires personal to the aggrieved person/person who preferred the revision, which is lacking in the instant case. Had an opportunity is given to the petitioner he would have explained the reason for the delay in filing the revision. Since no personal hearing was given before passing the impugned order and as the order under challenge is bereft of any reason, even with regard to the delay the order under challenge is set-aside and the matter is remanded back to the revisional authority for disposal of the same in accordance with law, after hearing the parties concerned, preferably, within a period of three months from the date of receipt of a copy of this order.

Accordingly, the writ petition is disposed of. No order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE PRAVEEN KUMAR

28.06.2016
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[\[1\]](#) 2002 (3) ALD 211 (DB)