

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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WRIT PETITION Nos.4412 & 8359 OF 2016

COMMON ORDER:

The writ petitioner claiming to be resident of Tamirisa Village, Nandigvada Mandal, challenges the report dated 30.1.2016 of the 4th respondent. In the report of the 4th respondent made to the Collector, pursuant to the complaint made by the petitioner, the 4th respondent confirmed that the 8th respondent is the resident of area falling within the jurisdiction of Agricultural Market Committee, Gudivada, and further the allegation made by the complainant i.e., the petitioners are found to be far from truth and that he made baseless and wild allegations in his petitions.

It is the contention of the learned counsel for the petitioner while reiterating the averments made in the writ affidavit as well as in the reply affidavit that in the process of enquiry, the 4th respondent recorded a statement on 28.1.2016 from the petitioner wherein the petitioner had categorically set out how and in what manner the 8th respondent created various documents to project himself as the respondents within the jurisdiction of Gudivada Agricultural market Committee though in fact he is resident of Polukonda Village falling within the jurisdiction of Kaikaluru notified market committee area. By drawing attention to the various factors which have been mentioned in the statement dated 28.1.2016, the learned counsel urges that not a single instance with respect to the statement given by the petitioner were referred to nor adverted to by the 4th respondent. The learned counsel further submits that civil supplies authorities have found two ration cards in the name of the 8th respondent – one bearing No.EAP 068302400505 and another bearing No.EAP064102500632.

The learned counsel for the petitioner submits that all these aspects of non consideration of the relevant material and consideration of the irrelevant material would vitiate the report submitted by the 4th respondent in favour of the petitioner

Sri Satyam Reddy, learned senior counsel appearing for the 8th respondent by bringing to the notice of the Court the certificate issued by the Veterinary Dispensary, Rudrapaka wherein it was certified that the 8th

respondent is having 18 animals and that he is experienced person in Animal Husbandry activities since 4 years and the said animals were kept at Gandepudi Village Fish Tank Banks in addition to making a reference to the property demand notices issued on him at Gudivada would contend that the 8th respondent is residing within the jurisdiction of the Gudivada Agricultural Marketing Committee and that the 8th respondent has acquired the property at Tummalapalli Village, Nandivada Mandal both by way of a gift deed and also by virtue of the purchase. Learned counsel relied on the Form-I(B) issued under R.O.R Act (for short "the Act"), to support his contentions. The learned counsel further submits that notwithstanding the fact that the 8th respondent is shown to be originally belonging to Polukonda Village as on the date of report is resident of Gudivada Village as evidenced by the Municipal receipts etc, he would specify the requirements of Section 5 of the Act are satisfied. Thus he seeks vacating of the interim order. He also submits that the writ petition is premature and there is no cause of action for the petition and it is only on the apprehension, the petitioner filed the present writ petition.

Having considered the submissions, the question that is required to be considered in the writ petition is that as to whether the report of the 4th respondent-R.D.O is vitiated for the reasons stated by the petitioner.

A perusal of the report submitted by the 4th respondent does not indicate in any manner a consideration of the sworn statement given by the petitioner on 28.01.2016 neither there is a reference to the report nor of the contentions which have been raised by the petitioner. It is not in dispute that it is at the instance of the petitioner that an enquiry is sought to be conducted on the orders of the District Collector about the various aspects which have been complained by the petitioner. It is further admitted that the petitioner was also called for enquiry by the 4th respondent-R.D.O and statement was also recorded. In other words, petitioner admittedly and undisputedly participated in the enquiry process. It is but natural for the petitioner to expect a reference being made to the contentions and objections raised by him and consideration of the same by the 4th respondent-R.D.O while submitting the report on the complaint made by him to the concerned authorities. In the present case, there being no consideration prima facie the report cannot be

said to be in order.

Though there is reference of the acquisition of the agricultural land by the 8th respondent in Thummalapalli village of Nandiwada Mandal, the specific objections raised with respect to those acquisitions in addition to the 8th respondent's possession of two pink ration cards do not find place in the report. It may also be noticed that by making a reference to the revenue records and adangals, the objection raised with respect to Ac.0.81 cents of land wherein it has been shown as surplus and further with respect to Ac.0.45 cents of land on one hand the 8th respondent claims on account of the Will alleged to have been executed by a third party as to whether an enquiry in respect of transfer of the same in favour of the 8th respondent has not been adverted too. In those circumstances as well, the report of the 4th respondent cannot be said to be reflecting all the aspects which the respective parties claim. In that view of the matter as well, the report is vitiated.

In those circumstances, both the writ petitions are disposed of directing the 4th respondent-R.D.O to pass appropriate orders after considering the material that may be placed by both the parties within a period of three weeks from the date of receipt of copy of the order. However, the observations made in the order shall not be construed as expressing of any opinion with respect to various aspects which have been brought before this Court by both the parties as they are made only for the purpose of disposing of the writ petitions. No order as to costs.

Miscellaneous Petitions, if any, pending in the writ petitions shall also stand closed.

CHALLA KODANDA RAM, J.

Date:31.03.2016.
Cbs/Gk.

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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