**THE HON'BLE SRI JUSTICE A.RAJASEKHAR REDDY**

**W.P.NO.27268 OF 2016**

**O R D E R**

The case of the writ petitioners as per the averments made in the writ affidavit is that the 1st petitioner - company purchased the subject land admeasuring Acs.4-25 gunts in Sy.No.150, 193, 248 to 251 situated at Immulnarva village, Kothur Mandal, Mahabubnagar District under registered sale deeds dated 13.12.2007 and 18.12.2007. The 2nd respondent – Revenue Divisional Officer, Mahaboobnagar after conducing enquiry under Rule 4 of A.P. Agricultural Land (Conversion for Non-Agricultural Purposes) Rules, 2006 (for short 'the Rules') issued proceedings dated 23.6.2008, converting the lands for non-agricultural purpose. The names of the petitioners' were also mutated in the revenue records. When the petitioners were developing the subject lands into house plots, the 2nd respondent – Revenue Divisional Officer issued memo No.K/4280/2008 dated 29.9.2008 requiring the petitioners not to take up development activities in the subject lands until further orders, as the said lands are Patta Shikam Lands and the original permission of conversion of agricultural lands to non-agricultural purposes granted to the petitioners was revoked by him under proceedings in K/4280/2008 dated 30.09.2008. Aggrieved by the memo dated 29.9.2008 and the proceedings dated 30.9.2009 passed by the 2nd respondent – Revenue Divisional Officer, the present writ petition has been filed.

2. The learned counsel for the petitioner reiterating the above facts submitted that after conducing enquiry under Rule 4 of the Rules, the 2nd respondent has issued proceedings dated 23.6.2008 permitting for conversion from agricultural purposes to non-agricultural purposes. He submitted that under memo dated 29.9.2008 the Revenue Divisional Officer required the petitioners to stop the development work and also issued proceedings dated 30.9.2008 revoking the permission granted under proceedings dated 23.6.2008. The learned counsel submitted that revocation proceedings were passed without issuing any notice to the petitioners. He further submitted that statute does not vest the 2nd respondent - Revenue Division Officer to revoke his proceedings *suo motu*. He stated that under Rule 5(iv) of the Rules, the Collector is the competent authority to pass appropriate orders and the Revenue Divisional Officer has no jurisdiction. Therefore, he sought to set aside the memo dated 29.9.2008 and the proceedings dated 30.9.2008.

3. The learned Government Pleader for Revenue, on instructions, submitted that the conversion proceedings dated 23.6.2008 were obtained by playing fraud on revenue authorities and hence the 2nd respondent – Revenue Divisional Officer has revoked the proceedings.

4. From the above it could be seen that the 2nd respondent vide proceedings dated 23.6.2008 granted permission for converting the subject land for use of non-

agricultural purposes. Rule 5 of the Rules contemplate the procedure for modifying or annulling the orders passed by the competent authority after issuing notice and hearing. The said provision for better appreciation is extracted as under:

> **5. Powers of collector / Revenue Divisional Officer / Mandal Revenue Officer:--**
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> **(i) . . .**
> **(ii) . . .**
> **(iii) . . .**
> **(iv) The Collector may suo moto or an application can call for the records, scrutinize to satisfy himself before or after the orders passed and to modify or annul any order or proceedings passed by the Competent Authority after giving notices and hearing the affected party.**

From a reading of the above provision it is clear that Collector *suo motu* or on an application can call for records and after satisfying himself, before or after the orders passed, can modify or annul any order or proceeding passed by the competent authority by following the principles of natural justice. The statute does not confer such power to the competent authority. In the present case, the competent authority is the Revenue Divisional Officer, who issued proceedings dated 23.6.2008 converting the land from agricultural use to non-agricultural purposes. In the absence of any provision, the said authority, cannot revoke his own proceedings that too without any notice in violation of principles of natural justice. In view of this legal position and the facts and circumstances, the memo dated 29.9.2008 and the proceeding dated 30.9.2008 issued by the 2nd respondent – Revenue Divisional Officer cannot be sustained and they are liable to be set aside.

5. Accordingly the impugned memorandum dated 29.9.2008 in K/4280/2008 and the cancellation proceedings No.K/4280/2008 dated 30.09.2008 passed by the 2nd respondent – Revenue Divisional Officer, Mahabubnagar, are hereby set aside and the writ petition is allowed. No costs.

6. However, liberty is granted to Collector for taking appropriate action as per Rule 5(iv) of the Rules.

7. Miscellaneous petitions pending if any, shall stand closed.

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A.RAJASEKHAR REDDY,J

DATE:29.08.2016

AVS