

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.23075 OF 2008

ORDER

The case of the petitioner is that he was assigned an extent of Ac.4.79 cents of agricultural land in Sy.No.627-2 of Thummalatalupuru Village, Sydapuram Mandal, Nellore District vide proceedings dated 30.05.1970. Petitioner obtained agricultural loan from the primary agricultural co-operative society on 31.05.1974 and created a registered mortgage vide document No.1485/1974. Later the petitioner discharged the entire loan amount. The petitioner's name was also entered in the revenue records and the pattadar pass book and title deed, duly signed by the 2nd respondent were also issued by the Mandal Revenue Officer on 13.07.1996, after conducting enquiry. It is stated that at present there is a standing crop of pulses on the subject land. While so, the petitioner came to know that the 1st respondent issued proceedings in Rc.No.B.324/2008 dated 29.07.2008 cancelling the pattadar pass book granted in favour of the petitioner along with 23 others in single order, without any prior notice and without any opportunity of hearing. Even the respondents have not carried out any substituted service before passing the impugned order. Aggrieved by the same, the present writ petition is filed.

This Court granted interim direction on 22.10.2008.

Counter affidavit is filed by the respondents stating that the cancellation proceedings could not be served on the petitioner as he was not residing in the village but he was served notice by substituted service on 12.07.2008. That the petitioner and other 23

assignees, who obtained assignment pattas in the year 1970 are not cultivating the said lands and most of them are not residing in the village. It is stated that regarding the cancellation proceedings, gramsabha was conducted on 12.07.2008. It is further stated that the petitioner and his family members are not having ration cards and their names were also not found in the voters list. Revenue Inspector and Village Revenue Officer after conducting enquiry and confirming that the assignee is not residing the village, issued the cancellation proceedings. It is further stated that the petitioner has an alternative remedy of appeal before the Revenue Divisional Officer and sought for dismissal of the writ petition.

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

The impugned order dated 29.07.2008 goes to show that the petitioner name was found at Sl.No.23 with an endorsement stating 'Not cultivating the land' where as in respect of some other persons it is written as 'Not residing in the Village'. As such, it cannot be the case of respondent that the petitioner was not residing in the village. This Court granted interim order on 22.10.2008 on the ground of non-issuance of notice. Further, it is stated that petitioner was issued pattadar pass books and also raised crops by obtaining loan on mortgage of documents.

In view of above facts and circumstances, I am of the opinion that petitioner was not given sufficient opportunity before cancelling the patta granted to him by issuance of notice. As such, the impugned order is set aside. However, this will not preclude the

competent authority from taking appropriate action by following due process of law.

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

A.RAJASHEKER REDDY,J

Date: 17.10.2016
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