

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No:34865 OF 2016

ORDER:

1. The present writ petition is filed by the petitioner under Article 226 of the Constitution of India, challenging the hearing of the Appeal in SRA No.16/2016/F2, dated 16.7.2016 without giving any opportunity to him.
2. Heard and perused the material available on record.
3. It is stated in the affidavit that the petitioner and his brother filed a petition in SR No.15 of 2005 before the Special Deputy Collector(TW) K.R. Puram, for eviction orders against the non-tribals, who are respondents Nos.5 to 7, in respect of lands in R.S.No.571/2 and R.S.No.1469 admeasuring Ac.5.56 cents and Ac.10.72 cents respectively situated in Buttaigudem village, on the ground that the said lands belonged to their ancestors. On 18.5.2006, the said Deputy Collector allowed the claim of the petitioner in respect of Ac.4.72 cents in R.S.No.1469 and disallowed the claim of the petitioner in respect of Ac.5.56 cents in R.S.No.571/2 and Ac.6.00 in R.S.No.1469. Aggrieved by the order of the said Deputy Collector insofar as the claim disallowed, the petitioner and his brother filed appeal before the 2nd respondent. Insofar as the claim allowed in favour of the petitioner, nobody filed appeal and the order of the Special Deputy Collector insofar as Ac.4.72 cents is concerned, became final. While so, the 4th respondent issued an endorsement dated 20.6.2016, in which he referred to W.P.No.11159 of 2016 filed by respondents Nos.5 to 7 before this Court. In the said W.P., this Court directed that the order in SR No.15 of 2005 should not be given effect until the appeal of respondents Nos.5 to 7 is disposed of. The petitioner came to know that subsequent to the

order in the above W.P., respondents Nos.5 to 7 filed appeal in SRA No.16/2016/F2 before the 2nd respondent. In the said appeal, the petitioner was not made as a party and the said appeal was heard without giving any opportunity to the petitioner. In the said appeal, the 2nd respondent passed the order impugned setting aside the order of the Special Deputy Collector, KR Puram, dated 18.5.2006.

4. The very short point raised by the learned Counsel for the petitioner is that even though an order was passed in favour of the petitioner by the competent authority, when an appeal was preferred by respondents Nos.5 to 7, the 2nd respondent passed the order impugned in favour of respondents Nos.5 to 7 without hearing the petitioner herein.

5. It is evident from the record that the order, which is under challenge before this Court, was passed by the 2nd respondent without giving any notice to the petitioner herein. Therefore, the order under challenge is set aside and the SRA No.16/2016/F2 is restored and the 2nd respondent is directed to dispose of the same afresh, after issuing notice to the petitioner and after hearing all the parties concerned.

6. With the above direction, the Writ Petition is disposed of. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Dated: 18th October, 2016
Nn.

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No:34865 OF 2016



18/10/2016

Nn.