HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.28400 OF 2017

Date: 04.09.2017

Between:

Shaik Masthan Saheb S/o late Hussain Saheb,
Aged about 71 years, occu: Agriculture,
R/o Thummala Thalupuru village, Sydapuram
Mandal, SPSR Nellore district.

.....Petitioner

and

The State of Andhra Pradesh, rep.by its
Principal Secretary, Revenue Department,
Secretariat Buildings, Velagapudi, Guntur
and others.

.....Respondents

The Court made the following:

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ORDER:

According to the petitioner, land to an extent of Ac.5.00 cents in Sy.No.48/2 of Orugpalli village, Sydapuram Mandal, SPSR Nellore District was assigned to him in the year 1970. Petitioner brought the said land into cultivation adhering to the terms and conditions of the assignment. Name of the petitioner was also mutated in the revenue records and pattadar pass book and title deeds were issued. While so, noticing that name of another person was shown as pattadar against subject land in 'Online Revenue Records', petitioner submitted representation to the 4th respondent. As 4th respondent was not responding to the request of petitioner, he submitted representation to the 2nd respondent bringing to his notice about the illegalities committed in the revenue records. The 2nd respondent instead of considering the grievance of petitioner, as ventilated by him on wrong entries made in 'Online Revenue Records', in exercise of power under Section 9 of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (Act, 1971), called for report from the 4th respondent and passed orders directing action under the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (Act, 1977), impugned in this writ petition.

2. Learned counsel for petitioner contends that when the grievance of the petitioner was, reflection of wrong entries in 'Online Revenue Records', the revisional authority ought to have considered the issue to that extent and ought not to have gone into

violations of terms of assignment granted and directing invocation of provisions under the Act, 1977.

3. A bare perusal of the order of the Joint Collector would show that proceedings were initiated under Section 9 of the Act, 1971. The issue for consideration under the Act, 1971 is only with reference to the claims for mutation of name in the revenue records/correction of entries made there under and for issuance of pattadar pass books and title deeds. In exercise of suo-motu power or on an application made under Section 9 of the Act, 1971, such request can be granted or refused on assessment of decision made by the subordinate authorities. The revisional authority can rectify any illegalities committed by the subordinate authorities. But all this concerns the entry of name in the revenue records on a particular property or cancellation of such entries made and/or issuance of pattadar pass books and title deeds. It appears, the entries in the revenue records were made based on the assignment granted to the petitioner, but in 'Online Revenue Records' a different name is reflected.

4. While considering the request of petitioner to rectify 'Online Revenue Records', if the revisional authority found that very assignment granted was erroneous or assignment terms were violated, he ought to have invoked the powers under the Act, 1977 independently. But, while exercising power under Act, 1971, he cannot transpose himself into the role of revisional authority under the Act, 1977, merely because revisional power is vested in the same authority by two different enactments and mix up of both powers and pass cumulative order.

5. He being a quasi-judicial authority, the power has to be exercised in terms of the relevant enactment under which that power is vested. Thus, his decision to the extent of holding that there is violation of assignment conditions and directing the Tahsildar to take appropriate steps is erroneous. To that extent the order impugned is not sustainable and is accordingly set aside. However, it is left open to the Joint Collector to initiate appropriate proceedings under the Act, 1977, if what is assessed by him would amount to violation of terms of the Act, 1977, by affording due opportunity to the petitioner and by following due procedure as required by law.

6. However, matter is remitted to the Joint Collector to examine the grievance of petitioner in exercise of revisional jurisdiction under Section 9 of the Act, 1971 and take appropriate decision thereon and communicate the same to the petitioner.

7. Writ petition is allowed accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE P.NAVEEN RAO

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