

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 5208 of 2013

ORDER:

1) The present writ petition came to be filed seeking issuance of writ of mandamus declaring the order dated 28.12.2012 passed in LTR Case No.177/2012/ DPT and served on the petitioner on 16.02.2013 as illegal, irregular, irrational, without jurisdiction, violative of principles of natural justice and contrary to the provisions of the Andhra Pradesh Schedule Areas Land Transfer Regulation I of 1959; and consequently direct the respondents not to dispossess the petitioner from the landed property admeasuring Ac.1.08 gts., in Sy.No.604 of Akinepally Village, Dammapeta Mandal, Khammam District.

2) The main ground urged by the learned counsel for the petitioner is that the impugned order came to be passed without issuing any notice to the petitioner, thereby violating the principles of natural justice. The same is opposed by the learned Government Pleader for Revenue stating that a reading of the impugned order would clearly indicate the issuance of notice to both the parties as per rules, but no evidence to that effect is filed inspite of giving sufficient time. Apart from that the Government Pleader submits that the writ petition has to be rejected since the affected party is not made as party to the proceedings.

3) As seen from the record, as against the impugned order an appeal would lie before the Addl. Agent to the Government (Project Officer, ITDA, Bhadrachalam) within a period of two months from the date of the order. In spite of the fact that there is an alternative remedy, till date the same is not availed of by the petitioner. Apart from that the present writ petition came to be filed without making the contesting party in the original proceedings as respondent to the present proceedings. Since the said person would be the aggrieved party in case of an order is passed, this Court is of the opinion that the petitioner should have taken necessary steps to implead Smt. Ramavarapu Saraswathi Charyulu, R/o. Akinapally as party to the proceedings.

4) The learned counsel for the petitioner mainly submits that the impugned order came to be passed without issuing any notice. According to him, if the entire record is summoned from the office of the Special Deputy Collector (TW), Bhadrachalam, the same would disclose as to whether any notice was issued and served. Insofar as service of notice is concerned, the same is under dispute. Two versions are being put forth before this Court, but no documentary evidence is placed to substantiate the same. However, the order under challenge indicates issuance and service of notice. It would be relevant to extract the relevant portion of the order which is as under:

“Requisite notices intimating the date of appearance were also issued to both parties as per rules in force.

Case finally called on 28.12.2012, petitioner and respondent both are absent, petitioner and respondent not filed any documentary evidence for proving their legal possession and rights.

The Court gave several adjournments to file documents but the both parties are not filed any document for case Scheduled land. The court perused the records available in the case file. The court believes the respondent is made violation of regulation 1/ 59 r/ w 1/ 70.”

5) Insofar as summoning the record is concerned, the petitioner can as well summon the record by availing the remedy of appeal before the concerned authority.

6) Accordingly, the present writ petition is disposed of directing the petitioner to file an appeal against the impugned orders before the concerned authority, in which event the same shall be dealt with in accordance with law keeping in view the limitation prescribed for filing the appeal. In view of the fact that there is interim suspension of the order passed by this Court on 21.02.2013, the same shall continue for a period of ten weeks from today. There shall be no order as to costs.

7) Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

28.06.2017
gkv