

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.V.M.P.No.3376 of 2016

in

W.P.No.12810 of 2016

and

WRIT PETITION No.12810 of 2016

ORDER:

This Writ Petition is filed by petitioner to call for records relating to the order dt.04-02-2009 of the 4th respondent in proceedings No.A/25/2009 and to quash the same.

2. Petitioner's grievance is that the impugned order has been passed without issuing any notice to him; that in fact the petitioner is an Ex-service man and an assignment was made to him in 1997; and after lapse of 10 years from the date of assignment, the 4th respondent had no power to cancel the assignment. He also submits that he ought to bring the land under cultivation within 3 years and the pattadar pass book issued to him itself shows that he is cultivating the land and therefore the action of 4th respondent is *mala fide*.

3. On 27-04-2016, this Court admitted the Writ Petition and granted interim order suspending the impugned order dt.04-02-2009.

4. W.V.M.P.No.3376 of 2016 is filed by 4th respondent to vacate the said order.

5. In the counter-affidavit/vacate stay petition, it is alleged that the petitioner did not bring the land into cultivation within 3 years from the date of assignment in 1997 and violated the conditions of assignment. It is also stated that notice was also issued to petitioner on 09-01-2009 and it was served by allegedly affixing it by planting the stick on the land of petitioner.

6. The allegation that the petitioner had not cultivated the land within 3 years from the date of assignment of land in 1997 is a false allegation disproved by the pattadar pass book issued by 4th respondent's office itself, which states that the land was under self-cultivation by petitioner.

7. Secondly, no reason is assigned why proper mode of service on petitioner by Registered Post with Acknowledgment Due was not followed in case petitioner was not available to receive the notice near the land. In the order dt.22-06-2016 in W.P.No.33312 of 2012, this Court has taken a view that service of notice by planting the stick on the land is not valid service of notice, following the judgment of this Court **Dodda Narasimhaiah Vs. District Collector**¹. Accordingly, the impugned order cannot be sustained. Therefore, it is set aside and the respondents are directed to restore possession of the land to petitioner forthwith.

8. W.V.M.P.No.3376 of 2016 is dismissed.

¹ MANU/AP/0405/2007

9. The Writ Petition is allowed with the above directions.

The 4th respondent shall pay costs of Rs.10,000/- (Rupees Ten Thousand only) to the petitioner.

10. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 20-06-2017

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