

HON' BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No.43330 of 2006

ORDER::

This writ petition is filed to issue a writ of mandamus to declare the proceedings dated 26-11-2016 passed by the 3rd respondent-RDO, Nizamabad, Nizamabad District, whereby the mutation, pattadar pass book and title deeds pertaining to land in Sy.No.307 to an extent of Ac.6-04 guntas situated at Kanteshwar Shivar of Nizamabad, Nizamabad District, were cancelled and directed to take steps to restore possession of the said land from the petitioner to the Government, as being illegal, arbitrary and violative of principles of natural justice and consequently direct the respondents not to dispossess the petitioner from the land in question.

2. The case of the petitioner is that the subject land is private patta land and recognizing his possession over the land, the RDO, Nizamabad, issued occupancy right certificate vide proceedings dated 09-02-1976 in respect of the subject land and he leased out part of the subject land to the

son of the 5th respondent and eventually disputes arose with him regard payment of payments of rents, and with that in view, the 5th respondent made a complaint to the 4th respondent-Tahsildar, complaining that the subject land is a Wakf land and the petitioner being former Muthawalli sold part of the land illegally and, therefore, sought for cancellation of the pattadar pass book and title deeds issued to the petitioner. That the petitioner has been issued with occupancy rights certificate in respect of the subject land way back in the year 1976 and he has sought information under the Right to Information Act from the 4th respondent-Tahsildar and also Asst. Director of Survey and Land Records, Nizamabad, which was replied by them stating that the subject land is a patta land. It is stated that the subject land is restored to Government on the ground that it is classified as mafi inam land abolished vide Act 1955 read with amendment Act No.29 of 1985, though it is a private patta land. Hence, this writ petition.

3. Heard the learned counsel for the petitioner and the learned Asst. Government Pleader for Revenue and the learned counsel for the 5th respondent.

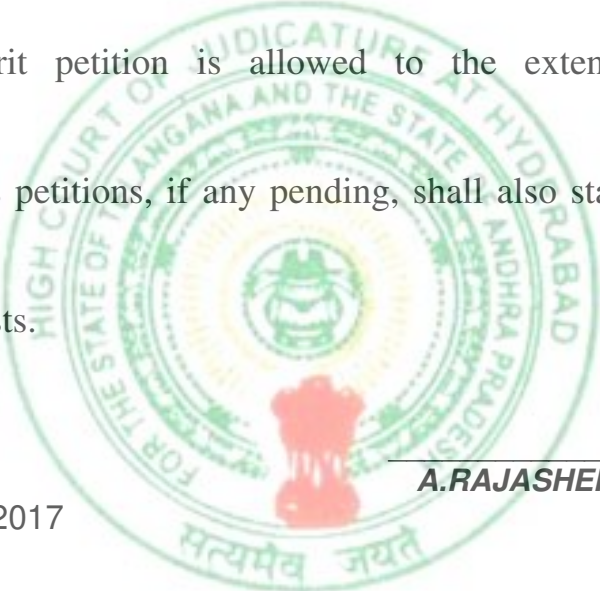
4. Learned counsel for the petitioner submits that the impugned order dated 26-11-2016 is an ex-prate order and no opportunity of being heard was afforded to the petitioner. It is also contended that the 3rd respondent has no jurisdiction to cancel the patta and title deeds granted to the petitioner and it is only the 2nd respondent who is authorized to do so by following due process of law. On the other hand, learned counsel for the 5th respondent stated that he has no objection for giving opportunity to the petitioner to put forth his case in the matter.

5. In the circumstances, without going into the merits of the matter, the impugned order dated 26-11-2016 is set aside for the reasons that it is passed by the authority who has no jurisdiction and also it being an ex-prate order, which if not set-at-naught, would deprive the rights of the petitioner. The matter is remanded to the file of 2nd respondent-Joint

Collector, Nizamabad, who is said to be competent to decide the *lis*. On remand, the 2nd respondent to consider the matter afresh after giving notices to the petitioner including respondents 5 and 6 and given them opportunity of hearing in the matter and pass appropriate orders thereon, in accordance with law, not later than three months from the date of receipt of a copy of this order.

6. The writ petition is allowed to the extent indicated above. Miscellaneous petitions, if any pending, shall also stand disposed of. No order as to costs.

Dated: 07-02-2017
NRG



A.RAJASHEKER REDDY,J

THE HON' BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No.43330 of 2016

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DATE: 07-02-2017

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