

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.18813 of 2005

ORDER

Heard learned counsel appearing for the petitioner and learned counsel appearing for the 3rd respondent.

The case of the petitioner is that his father was a Naturopath. His father and mother established the Nature Cure Hospital at Begumpet and Gandhi Nature Cure College, at Hyderabad. His father was living in a house constructed in Survey No.138 of Gogillapur Village. The petitioner does not know the details regarding the title of the land in which his father had constructed the house and had been residing. His father expired in June, 1998. Later on, the Mandal Revenue Officer issued pattadar pass book in the name of the father of the petitioner to an extent of Ac.2.10 cents. On the basis of the said pattadar pass book, a sale deed was executed on 30.1.2004. Thereafter, on coming to know of the fact that the land belongs to 3rd respondent-A.P. Bhoodan Yagna Board and it cannot be alienated, the petitioner got the sale deed cancelled on 15.3.2004 and communicated the same to the 3rd respondent on 19.3.2004. It is the further case of the petitioner that one Guruvayurappa, who was residing in the building constructed by his father with his permission, instigated the local people and tried to encroach upon the

land. Later on, when the petitioner went to the office of the 3rd respondent and submitted the cancellation deed, he was issued notice dated 23.7.2004 stating that the land was alienated to 3rd parties. The petitioner submitted his explanation on 27.8.2004. Ultimately, a final show cause notice was issued on 13.4.2005. Thereafter, some correspondence ensued whereby he came to know that the allotment made on 29.4.1974 was cancelled by virtue of a resolution of the 3rd respondent-Board on 21.7.2005. Challenging the cancellation of allotment, the present writ petition is filed.

The 3rd respondent filed counter-affidavit stating that the father of the petitioner died in the year 1998 and upon his death, the petitioner and his brothers executed a sale deed on 31.1.2005 alienating the land to one P.T.Venkayamma in violation of the provisions of the A.P.Bhoodan & Gramdhan Act and the Rules made thereunder. The said Venkayamma, being the purchaser of the subject land, submitted an application to issue proceedings in her name. The 3rd respondent also received representations from the local residents on 27.2.2004 and 3.3.2004 stating that illegal alienation was made by the petitioner and requested for issuance of house site pattas as they erected huts in the said

land. A spot inspection was made by the Board and noticed that several huts were erected and a statue of Dr.B.R.Ambedkar was installed. The 3rd respondent addressed a letter to the Mandal Revenue Officer, Qutubullapur Mandal on 5.3.2004 to submit a report. In those circumstances, a show cause notice dated 23.7.2004 was issued to the petitioner, for which, he submitted his explanation on 27.8.2004. Thereafter, final notice dated 13.4.2005 was issued and the petitioner submitted his explanation. The petitioner sought for personal hearing and though an opportunity of personal hearing was afforded to him, he avoided the same on one pretext or the other. In those circumstances, decision was taken on 21.7.2005 to cancel the allotment made in the year 1974. It also stated that based on the report of one man committee, decision was taken by the Board and cancelled the allotment made earlier. It is further stated that the petitioner personally visited the Board Office number of times and his representation was considered by the Chairman and the records desired by him were supplied to the petitioner in person and by post. Now, the land is encroached by local villagers. The petitioner and his brother, who are practicing Doctors, did not choose to continue the activities in the land.

A reply affidavit is filed by the petitioner stating that required information was not given, in spite of several representations, no sufficient opportunity was given, and the opportunity of personal hearing was given only on 13.8.2005. The allegation that the Chairman never asked the petitioner to take note of the situation, was denied.

In view of the above averments, it is clear that the land claimed by the petitioner is a Bhoodan land coming under the provisions of A.P.Bhoodan & Gramdhan Act, 1965. It appears that the allotment was made in favour of father of the petitioner on 29.4.1974. The father of the petitioner expired in the month of June, 1998 and thereafter, the petitioner and his brother alienated the land in favour of one P.T.Venkayamma by registered sale deed dated 31.3.2005. However, on coming to know about the nature of the land, cancellation deed dated 15.3.2004 appears to have been executed by the petitioner. In the meanwhile, pattadar pass books and title deeds containing the name of their father, were obtained by the petitioner and his brother. It also appears that some local villagers occupied the land and erected huts.

In the present case, the only point that arises for consideration is whether the cancellation of allotment made in favour of father of the petitioner was valid or not.

In the instant case, as could be seen from the material papers filed along with the writ petition, when the process of receiving explanation from the petitioner was going on, a notice was issued, asking him to represent the matter on 4.8.2005 before the member of the Board in order to take further action. But, as could be seen from Memo in R.C.No.C/23/04, dated 18.08.2005 of the 3rd respondent, a decision was taken by the Board on 21.7.2005 to cancel the allotment made on 29.4.74. It also appears from the counter-affidavit that the 3rd respondent took the decision on the basis of the report submitted by same member before whom the petitioner was asked to appear before the Board on 4.8.2005. The appearance of the petitioner on 4.8.2005 was a mere formality as a decision was already taken on his representation by the Board on 21.7.2005 to cancel the allotment.

This procedure of cancellation even before hearing the petitioner cannot be appreciated by this Court and hence the cancellation of allotment of land *vide* Memo dated 18.08.2005 is set aside and the matter is remanded to the 3rd respondent for taking action in accordance with law by giving fresh show cause notice to the petitioner proposing the action to be taken by the 3rd respondent. The petitioner shall be given due opportunity to submit his case and after considering the

explanation submitted by him a final decision shall be taken by the 3rd respondent.

It is submitted by the learned counsel for the 3rd respondent that there is no board as of now and a Special Officer, who is functioning in the place of Board, is competent to take decision.

In view of the same, the Special Officer so appointed in the place of Board shall take a decision as expeditiously as possible after following the procedure within a period of six months from the date of receipt of a copy of this order. It is needless to observe that the petitioner shall co-operate with the 3rd respondent in disposal of the matter as directed.

The Writ Petition is allowed accordingly. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE A.RAMALINGESWARA RAO

9th June, 2017
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