

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.25621 of 2010

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, came to be filed seeking to remand the matter to the first respondent-Commissioner of Appeals, Nampally, Hyderabad.

Heard Sri Y.Narasimha Reddy, learned counsel for the petitioner, and learned Assistant Government Pleader for Revenue for respondents.

The facts leading to filing of the present writ petition, in brief, are as follows:

The husband of the petitioner by name Bhaskar Reddy, purchased land admeasuring Acs.4.00 guntas in S.No.78/2 at Mangalam Village, Tirupathi Urban Mandal, Chittoor District, on 17.06.1981 for a valuable consideration from one Chinna Gangaiah, Muni Krishnaiah and Munuswamy, who obtained patta from the land holder by way of Takid on 22.06.1944. The said land was classified as AWD in revenue records due to the wrong survey conducted in the years 1958 to 1962. Further, the husband of the petitioner also purchased land admeasuring Acs.2-45 cents in survey No.113 out of Mangalam Village from one Y.Guruvaiah and his sons on 01.06.1978. The said Guruvaiah obtained patta for the schedule lands from the land holder on 22.06.1944. As the lands were classified as AWD in revenue records, her husband approached the Settlement Officer, Nellore, for grant of patta under Section 11 (a) of the Estates Abolition Act, 1948. After verifying the records, the Settlement Officer granted patta in favour of husband of the petitioner, in respect of said lands vide S.R.No.126/11(a)/82 dated 15.01.1983. After death of her

husband, petitioner has been in peaceful possession of the said lands till date. Thereafter, the District Collector, Chittoor, preferred a revision under Section 5 of Estates Abolition Act to the Director of Survey and Settlements, who allowed the revision vide R.P.No.102/83-H1 dated 03.04.2002. As against the same, the petitioner preferred a revision before the Chief Commissioner for Land Administration, Hyderabad, under Section 7 of the Estates Abolition Act. In the revision, the Commissioner confirmed the order of the Director. Aggrieved by the same, the present Writ Petition came to be filed mainly on the ground that no notice was given to the petitioner and that the Commissioner has passed the order without hearing the petitioner.

Learned counsel for the petitioner mainly submits that no opportunity was given to the petitioner to putforth her case. He placed on record, the affidavit filed by the petitioner before the Chief Commissioner on 25.08.2010 to show that the order dated 20.03.2010 was an *ex parte* order. It is the case of the petitioner that initially the case was posted for hearing, thereupon it was adjourned from time to time and the date of adjournments were not intimated to the petitioner. According to the learned counsel, with very great difficulty he could obtain a copy of the order dated 20.03.2010 and file the present writ petition.

Learned AGP would submit that in spite of adjourning the matter for several times, the petitioner failed to appear before the Chief Commissioner and as such, the order dated 20.03.2010 came to be passed, which warrants no interference of this Court.

Paragraph 9 of the order dated 20.03.2010 is relevant for better appreciation of the matter, which reads as under:

“ The case was called on 11.03.2010. Special Government Pleader was present and supported the impugned orders. Counsel for the Revision Petitioner was not present. Counsel for the proposed implead petitioner Sri G.V.Ramanamurthy was present. Moreover, from 2006, the Counsel for the Revision Petitioner was not attending the Court. Since the case is pending since 2002, it was Reserved for Orders”.

However, the learned counsel for the petitioner disputes the said observations of the Chief Commissioner contending that paragraph 8 of the very same order reveals that the petitioner has attended the Court as and when required. Paragraph 8 of the order is extracted hereunder:

“ After receipt of the records from lower courts, the Revision Petition was posted for hearing on 28.04.2003 and was adjourned to 03.03.2004, 28.10.2004, 24.11.2004, 26.11.2004, 28.03.2005, 11.04.2005. On 11.04.2005, the then Commissioner, Appeals, after hearing all the parties Reserved the case for Orders. Later, the case was reopened due to transfer of presiding Officer and posted the case to 10.11.2006, 05.01.2007, 20.02.2007, 23.07.2008, 03.12.2008, 26.02.2009, 31.12.2009 and on 11.03.2010.”

It is the case of petitioner that after reopening the case, the dates of adjournment were not intimated to him and as such, he could attend and contest the matter.

Having regard to the fact that the litigation is going on since many years and the petitioner was not heard by the first respondent before passing the order dated 20.03.2010, this Court is of the view that there is clear violation of principles of natural justice as order came to be passed without hearing the petitioner. Hence, this Court

is of the view that ends of justice would be met if an opportunity of hearing is given to the petitioner by remanding the matter to the first respondent for fresh adjudication after giving due opportunity to all the parties.

Accordingly, the order dated 20.03.2010 is hereby set aside and the matter is remanded back to the first respondent for fresh consideration after giving an opportunity of hearing to the petitioner and all other parties.

Miscellaneous petitions pending in this petition, if any, shall stand closed. No costs.

22.08.2017
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JUSTICE C. PRAVEEN KUMAR

