

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.19601 of 2017

ORDER:

The petitioners challenge show-cause notice No.Rc.F2/489/2017 dated 01-06-2017 issued by the 2nd respondent as illegal and without jurisdiction and in the facts and circumstances of the case, issuing notice is unsustainable.

The 4th respondent forwarded report to the 3rd respondent through proceedings Rc.B.No.1122/2016 dated 18-02-2017 on the unauthorized or illegal assignment by a few persons and basing on such bogus pattas, several sale and purchase transactions of assigned lands are taking place. The 3rd respondent in turn forwarded report to the 2nd respondent. Basing on the reports of respondents 3 and 4, it is stated in notice impugned in the writ petition that enquiry is conducted to find out the legality or propriety or whether fraud or fabrication of pattas had taken place or not.

Learned counsel for petitioners contends that issuing notice to conduct enquiry into assignments made in the year 1992 is illegal and unsustainable. According to him, action of suo-motu revision can be entertained within reasonable time but not at this length of time.

The contention, in the considered view of this Court, loses sight of one of the circumstances namely that the 2nd respondent proposes to conduct enquiry into the fabrication/bogus D-Form pattas obtained for subject lands. Once the enquiry is into bogus pattas or that they are fabricated, the normal rule that the power of suo-motu revision is exercised within reasonable time is not applied. The matter requires factual verification and that the petitioners should be given fair and reasonable opportunity.

This Court is in agreement with the submission of learned counsel that unless and until a copy of 3rd respondent's report is given, the petitioners are handicapped and if finally the order of the 2nd respondent is based on 3rd respondent's report, the petitioners would suffer prejudice.

The submission is taken note of and to ensure fairness in action, the 2nd respondent is directed to furnish copy of 3rd respondent's report, which is now treated as a basis for enquiry into the assignments made in favour of petitioners. The same shall be made available within two weeks from the date of receipt of a copy of this order. On receipt of report, the petitioners are given further time of four weeks to file reply before the 2nd respondent. Thereafter, the 2nd respondent examines the record, affords opportunity to petitioners and disposes of the case in accordance with law. As a notice is issued for looking

into the propriety or legality of assignments, it is needless to observe that possession or enjoyment of petitioners is not disturbed till orders are passed and communicated to petitioners.

The writ petition is disposed of accordingly. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

Dt: 16-06-2017
Prv

S. V. BHATT, J



