

HON'BLE SRI JUSTICE S.V. BHATT

W.P. No.9915 OF 2015

ORDER:

No representation for petitioners. Heard Mr.Srinivasan holding for Mr.K.Chidambaram for respondents 5 to 7.

The issue arises under the A.P. Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act'). The subject matter of writ petition is Survey No.18 of Mallapur Village, Kothur Mandal, Mahabubnagar District and respondents 5 to 7 herein invoked the jurisdiction of 2nd respondent under Section 9 of the Act to call for 1B register relating to the subject matter of writ petition, verify the regularity, legality or propriety of incorporation of names of respondents 5 to 7 and pass appropriate orders.

The 2nd respondent/revisonal authority after hearing both sides on the irregularity noticed in incorporation of names of respondents 5 to 7 held as follows:

"Perused the material available on record. As seen from the copy of the ownership certificate issued U/s.38-E of the AP (TA) Tenancy and Agricultural Lands Act, 1950 of the RDO, Mahabubnagar, Sri Andia Lambada, R/o. Mallapur is the protected tenant over land bearing Sy.No.18, extent Ac.20.00 and Sri Narayan Reddy, S/o.Papi Reddy is the land holder over the suit land. It is evident that the RDO, Mahabubnagar vide proc. No.A10/11988/74 has conferred ownership rights in respect of the suit land in favour of Sri Andia Lambada. As seen from the pahani for the year 1995-96 the Revision Petitioners have been in possession of the suit land.

It is the case of the Revision Petitioners that the names of the Respondents herein have been implemented in the ROR without issue of notice to the

effected persons and without conducting proper enquiry into the matter. As per the information furnished under RTI Act vide Lr.No.A/6084/2010, dt.01.12.2010 of the Tahsildar, Kothur, the ROR proceedings through which the names of the Respondents implemented in the ROR has not been furnished to the Revision Petitioners stating that the Respondents filed objection petition for not furnishing the information.

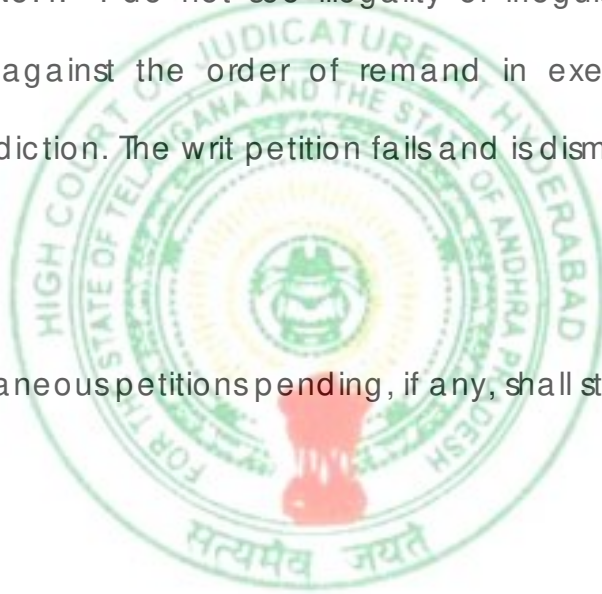
As per Section 5(1) and 5(3) of the AP Rights in Land and Pattadar Pass Books Act, 1971 read with Rule 19(2) of the said rules issue of personal notice to the effected persons who are on record is a mandatory requirement. Non issue of notice to the effected persons suffers from principle of natural justice.

In view of the above circumstances the revision petition is hereby allowed and the entries recorded against the suit land in the ROR are set aside and the matter is remanded back to the Tahsildar, Kothur with a direction to issue notices to both the parties and pass appropriate orders as per the provisions of AP Rights in Land and Pattadar Pass Books Act, 1971."

Hence the writ petition at the instance of persons whose names were shown in 1B register. Be that as it may, the scope of jurisdiction under Section 9 of the Act empowers 2nd respondent to consider the regularity, correctness, legality or propriety of any decision taken by recording authority or appellate authority. In the case on hand, the 2nd respondent is satisfied that while incorporating the names of petitioners' vendors, the order passed by the Revenue Divisional Officer granting certificate under Section 38-E of A.P. (TA) Tenancy and Agricultural Lands Act, 1950 is not noticed much less persons who have interest were not heard before incorporating their names. In other words, the incorporation of

names is without following the procedure stipulated in this behalf and also contrary to principles of natural justice. Therefore, without finally deciding the issue, the 2nd respondent had set aside the orders incorporating the names of petitioners' vendors and ordered fresh enquiry. After perusing the order impugned in the writ petition and also the counter affidavit filed by Tahsidlar/4th respondent, I am satisfied that the 2nd respondent has rightly exercised jurisdiction of revision in the case on hand, and commensurate to the contest between the parties has rightly remitted for consideration by respondent No.4. I do not see illegality or irregularity warranting interference against the order of remand in exercise of writ of certiorari jurisdiction. The writ petition fails and is dismissed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.



S.V.BHATT, J

Date:22.08.2017
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