

The Hon'ble Sri Justice M.S.Ramachandra Rao

Writ Petition No.8128 of 2017

Dated 23.11.2017

Order:

1. Heard the learned Counsel for the petitioners, the learned Government Pleader for Revenue (AP) appearing for respondent Nos.1 to 3, the learned Government Pleader for Home (AP) appearing for respondent No.4 and Mr.V.Roopesh Kumar Reddy, learned Counsel for respondent No.5.
2. The petitioners have filed this Writ Petition assailing the proceedings in Rc.B/888/2016, dated 28-12-2016, of respondent No.3 cancelling the sub-division done earlier *i.e.*, on 27-07-2015 in respect of the land in Survey No.241-2 of Kagithalapur Village, Manubolu Mandal, SPSR Nellore District.
3. The petitioners contend that their vendor made an application to respondent No.3 in the year 2015 requesting the latter to survey and fix the boundaries with sub-division; that the said survey and sub-division was done by respondent No.3 on 27-07-2015; that thereafter, the petitioners purchased the same on 06-10-2016 under three registered sale deeds; and that without notice to the petitioners, respondent No.3 cancelled the sub-division done on 27-07-2015 at the instance of respondent No.5, by passing the impugned order.
4. On 08-03-2017, this Court directed that *status quo* prevailing as on that date shall be maintained for a period of eight weeks, which was subsequently extended until further orders.

5. WVMP.No.4557 of 2017 filed by respondent Nos.1 to 3 to vacate the said order. In the vacate stay petition/counter-affidavit, respondent No.3 pleaded that though he did not issue any notice to the petitioners before passing the impugned order, he has intimated them over phone. The phone number of the petitioners is not mentioned anywhere in the record and it is not known as to how respondent No.3 came to know their phone number.

6. When an order, which inflicts civil consequences on a party, is being passed, principles of natural justice would apply, and a notice, before passing the order, should have been given by respondent No.3 to the affected parties like petitioners. Thus, there is a clear violation of the principles of natural justice by respondent No.3 while passing the impugned order.

7. Respondent No.5, at whose instance the impugned order was alleged to have been passed, also filed WVMP.No.2356 of 2017 seeking vacation of the interim order of *status quo*. He contends that he has purchased a portion of the land in Survey No.241-2 of Kagithalapur Village, Manubolu Mandal, SPSR Nellore District, in the year 2014 and that without notice to him, the sub-division was done by respondent No.3 in the year 2015. This fact is also not disputed by respondent No.3 in his counter-affidavit.

8. It is not understandable as to how respondent No.3 has been affecting the sub-division each time without notice to the affected party even though he is fully aware that both the petitioners and

respondent No.5 are likely to be affected if any sub-division is made without their knowledge. He is, thus, the author of all the mischief.

9. In these facts and circumstances of the case, the Writ Petition is disposed of by setting aside not only the sub-division affected on 27.07.2015 but also the one affected on 28-12-2016 by respondent No.3. Respondent No.3 is directed to issue notice to both the petitioners as well as respondent No.5 and decide the issue of sub-division after hearing the stand of both parties. This exercise shall be completed within eight weeks from the date of receipt of a copy of this order. Till then, *status quo* prevailing as on today shall be maintained by both parties. Respondent No.3 shall pay costs of Rs.2,000/- to both the petitioners and respondent No.5.

10. As a sequel to disposal of the Writ Petition, Miscellaneous Petitions, pending if any, stand disposed of as infructuous.

Dt: 23rd November, 2017
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(M.S.Ramachandra Rao, J)