

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION No.24618 OF 2007

ORDER:

This writ petition is filed challenging the order of the Joint Collector, Adilabad, first respondent herein, in proceedings No.B1/221/2006, dated 24.03.2007, whereunder the first respondent directed the Mandal Revenue Officer, Kaghaznagar, second respondent herein, to implement the order of Sub-Collector & Sub-Divisional Magistrate, Asifabad to the effect of cancellation of patta issued in favour of the petitioner in respect of land admeasuring Ac.5-00 guntas in Sy.No.24 of Guvvalagudem, H/o. Nagampet Village, Kaghaznagar Mandal, Adilabad District.

2. It is the case of the petitioner that he was given the assignment of subject land in the year 1965. Since then, he has been in possession and enjoyment over the subject land by cultivating it. The revenue authorities mutated his name in the revenue records. While so, when the third respondent tried to interfere with his possession over the subject land, he filed an injunction suit in O.S.No.34 of 1995 on the file of the Court of the District Munsiff at Sirpur. The said Court, by its judgment and decree dated 25.07.1996, decreed the suit restraining the third respondent herein permanently from interfering with the peaceful possession of the petitioner over the suit land. Thereafter, on a petition filed by the third respondent in the year 2005, the Sub-Collector & Sub-

Divisional Magistrate, Asifabad, passed an order in Case No.G/1790/2005, dated 22.09.2005, holding that the petitioner is a rich person and thus directed the second respondent to cancel the assignment of the petitioner and to assign the subject land to suitable landless poor. Aggrieved by the said order, the petitioner preferred a revision before the first respondent and the same was dismissed, by order dated 24.03.2007, which is under challenge in this writ petition.

3. The first respondent in the impugned order held as follows:

“ It is a fact that he is a rich person having some standing in the village. Thus the MRO, Kaghaznagar was directed to cancel the irregular assignment after following due procedure and give notice to all the parties concerned and assign the land to suitable landless poor and the petitioner is not genuine as he has already having assigned land and other patta lands and also a rich person having same standing in the village and requested the revision petition is liable for dismissed.

Heard the case on perusal of records, it is clear that the orders of Sub-collector, Asifabad are not implemented. Therefore I am of the opinion that Mandal Revenue Officer, Kaghaznagar has to implement the orders of the Sub-Collector, Asifabad first. Alo in view of latest instructions as per POT Act 1977 (8/77) the Mandal Revenue Officer, Kaghaznagar has to take action as per law. The case is accordingly disposed of with that direction.”

4. A perusal of the above order shows that the first respondent did not make any enquiry, much less, perused the record before him. Solely basing on the remarks made in the order of the Sub-Collector & Sub-Divisional Magistrate, Asifabad, dated 22.09.2005, the first respondent passed the impugned order holding that the petitioner is a rich person

and he is having standing in the village. The first respondent has not assigned any reason to come to the conclusion that the petitioner is not a landless poor. He has not referred any document to show that the petitioner is having other assigned lands in the village. The first respondent simply stated that the Sub-Collector & Sub-Divisional Magistrate, Asifabad, reported that the petitioner is having assignment land and he is not landless poor and dismissed the revision petitioner by order dated 24.03.2007. Hence, the order of the first respondent is liable to be set aside.

5. In the facts and circumstances of the case, the writ petition is allowed setting aside the order of the first respondent in proceedings No.B1/221/2006, dated 24.03.2007 and remanding the matter to the first respondent for deciding fresh in accordance with law, after giving reasonable opportunity of personal hearing to the petitioner, as expeditiously as possible, preferably within a period of two months from the date of receipt of a copy of this order. No costs. Miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 29.06.2018
TJMR