

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Petition No.19526 of 2007

Order:

This Writ Petition is filed to declare the order dated 08.08.2007, passed by the 1<sup>st</sup> respondent – Director (Appeals), Office of the Chief Commissioner of Land Administration, Hyderabad, confirming the orders passed by the 2<sup>nd</sup> respondent – Joint Collector, Nellore, Nellore District, in cancelling the assignment made in favour of the petitioner in respect of the land in Survey No.63/3, admeasuring Ac.2-00, situated at Devammacheruvu Village, Seetharampuram Mandal, Nellore District, as illegal and arbitrary.

The brief facts of the case, according to the petitioner, are that she being a landless poor person made an application to the 3<sup>rd</sup> respondent – Mandal Revenue Officer, Seetharampuram Mandal, Nellore District, to assign the agricultural land; after due enquiry, the Mandal Revenue Officer, Seetharamapuram Mandal, granted assignment patta on 28.10.2006 to her in respect of the land to an extent of Ac.2-00 in Survey No.63/1 of Devammacheruvu village; subsequently, on the complaint made by the villagers, she was issued a notice on 24.02.2007 and after receipt of explanation from her, the 2<sup>nd</sup> respondent – Joint Collector cancelled the assignment vide orders dated 28.03.2007; aggrieved by the same, she filed an appeal before the Director of Appeals and the said appeal was dismissed on 08.08.2007; challenging the same, she filed the present Writ Petition.

Heard learned counsel for the petitioner and learned Assistant Government Pleader for Revenue.

Learned counsel for the petitioner contends that the petitioner is a native of Devammacheruvu village and though she has categorically mentioned before the Enquiry Officer and submitted the copies of Nativity Certificate etc., showing that she is a native of Devammacheruvu village, the same was not considered and the assignment was cancelled on the ground that she did not produce the Ration Card and Voters ID showing that she is the resident of Devammacheruvu village. He further contends that the assignment can be cancelled only if the assignee violates the conditions of the assignment, but not on the ground that the assignee is not a resident of that village. He further contends that though a specific plea was taken in the grounds of appeal by the petitioner that her husband is not a Motor Mechanic and he was not granted any assignment; they do not possess the STD Booth, Xerox Shop and Maruthi Van at Seetharamapuram village and the STD Booth and Xerox Shop belong to one Chandragiri Suresh, who is the son of her brother-in-law, and Maruti Van belongs to one Chandragiri Venkateswarlu, who is the brother of her husband, the Director of Appeals, without appreciating the said contentions of the petitioner in a proper perspective and taking the contentions of the petitioner in the grounds of appeal as admissions made by her and as if she is the resident of Seetharamapuram and her husband namely Chandragiri Venkateswarlu is a Motor Mechanic and he was already granted assignment over an extent of Ac.2-00 in Survey No.63/2 of Devammacheruvu village and they possessed STD Booth, Xerox Shop Centre and Maruthi Van at Seetharamapuram, passed the impugned order, hence the same is liable to be set aside.

As seen from the record, on 29.01.2007 the residents of Devammacheruvu village filed a representation before the District

Collector, Nellore District, stating that the lands in Survey No.63 of Devammacheruru village were assigned to the outsiders of the village and requested to enquire into the matter. The Mandal Revenue Officer, who enquired into the matter, reported that the petitioner is a resident of Seetharamapuram village and her husband namely Chandragiri Venkateswarlu is a Motor Mechanic and that he was already granted assignment over an extent of Ac.2-00 in Survey No.63/2 of Devammacheruvu village and that the assignees possessed STD Booth, Xerox Shop Centre and Maruthi Van at Seetharamapuram and, accordingly, recommended for cancellation of the assignment granted to the petitioner. Basing on the said report, the Joint Collector, Nellore issued a notice of hearing to the petitioner. The petitioner attended the enquiry before the Joint Collector and produced Xerox copies of Nativity Certificate, Caste Certificate, Resolution of Sarpanch, Pattadar Passbook and Adangal extract, but as she has not produced any Ration Card, Voters ID Card or Voters List showing that she is a resident of Devammacheruvu village, the Joint Collector cancelled the assignment of the petitioner and also the pattadar passbooks granted to her.

Aggrieved by the same, the petitioner filed an appeal before the Director (Appeals), office of the Chief Commissioner of Land Administration, Hyderabad, contending that the allegations made in the report of the Mandal Revenue Officer are totally incorrect and that he submitted a false report by alleging that she is residing in Seetharamapuram and her husband is a Motor Mechanic and he was already granted assignment over an extent of Ac.2-00 in Survey No.63/2 of Devammacheruvu village and they possessed Telephone Booth, Xerox Shop Centre and Maruthi Van at Seetharamapuram and recommended for

cancellation of patta and, basing on the said report, the Joint Collector, without considering the documents produced by her, cancelled the assignment patta granted to her.

As seen from the impugned order passed by the Director of Appeals, the contention of the petitioner in the grounds of appeal is that the Mandal Revenue Officer submitted a false report by alleging that she is residing in Seetharamapuram village and her husband is a Motor Mechanic and that he was already granted assignment over an extent of Ac.2-00 in Survey No.63/2 of Devammacheruvu village and that they possessed STD Booth, Xerox Shop Centre and Maruthi Van at Seetharamapuram. The petitioner further contended in her grounds of appeal as follows.

“The allegations made in the report are totally incorrect and not true. It is submitted that there is no land was assigned in favour of Venkateswarlu and same was confirmed by the Village Revenue Officer in his report by stating that there is no land was assigned in favour of Chandragiri Venkateswarlu. It is further submitted that the appellant's husband is not a Motor Mechanic. The STD Booth and Xerox Shop Centre belongs to one Chandragiri Suresh who is son of his brother. In respect of Maruti Van is concerned it belongs to Chandragiri Venkateswarlu who is brother of her husband. The said Venkateswarlu is working as Secretary in Co-operative Central Bank at Udayagiri. The appellant has categorically mentioned before the Enquiring Authority and submitted the copies of Native, Caste Certificates, resolution of Sarpanch by showing that she is a native of Devammacheruvu village.”

The Director of Appeals, in spite of observing that as per the integrated caste certificate issued by the Mandal Revenue Officer, Seetharamapuram Mandal, the petitioner is a native of Devammacheruvu

of Seetharamapuram Mandal, has opined that the same cannot be treated as a sole evidence of residence. The Director of Appeals, under a mistaken impression, proceeded on the premise that the petitioner admitted that her husband Sri Chandragiri Venkateswarlu is a Motor Mechanic and he was already granted assignment over an extent of Ac.2-00 in Sy.No.63/2 of Devammacheruvu village and they possessed STD Booth, Xerox Shop Centre and Maruthi Van at Seetharamapuram, and confirmed the order passed by the Joint Collector by observing as follows.

“10.....In this case it is an admitted fact that the appellant's husband Sri Chandragiri Venkateswarlu is a Motor Mechanic and he was already granted assignment over an extent of Ac.2-00 in Sy.No.63/2 of Devammacheruvu village and the assignees possess STD Booth, Xerox Shop Centre and Maruthi Van at Seetharamapuram and comes under above poverty line. As per BSO 15(10) among eligible landless poor applicants first preference shall be given to local landless poor, second preference to landless poor of adjoining villages and third preference to the landless poor within the revenue Mandal and not she should be below poverty line.

11. In view of the above, I see no reasons to interfere with the orders D.Dis.No.749/2007, dated 28.03.2007, of the Joint Collector, Nellore district, and the Appeal deserves no consideration on merits as well as facts. Accordingly, the appeal is dismissed.”

As explained above, the Director of Appeals passed the impugned order treating the contentions of the petitioner as admissions made by her. Hence, the impugned order is liable to be set aside and the matter be remanded to the Joint Collector for fresh consideration.

In view of the same, the Writ Petition is allowed and the impugned order is set aside. The matter is remanded to the Joint Collector, Nellore,

Nellore District, with a direction to consider the matter afresh, after giving reasonable opportunity of hearing to the petitioner, and pass appropriate orders in accordance with law. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

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KONGARA VIJAYA LAKSHMI, J

Date: 30<sup>th</sup> August 2018  
Nsr



THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI



Date: 30<sup>th</sup> August 2018

Nsr