

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.3769 of 2018

ORDER:

It is stated by the petitioner that the Tahsildar, Narsapur, by his proceedings, dated 05.12.1977, assigned the land of an extent of Ac.1.21 cents in Survey Nos.164/1, 3 and 183/1, 3 of Sivadeuni Chikkala Village (erstwhile Narsapur Taluq), Palakol Mandal, West Godavari District, subject to payment of land value and granted D-Form patta on 06.12.1977. The petitioner has been in possession and enjoyment of the said land since then. He raised coconut trees in the said land. However, one Sri Vegesina Subba Raju, lodged a complaint and, on his complaint, the then Assistant Collector, Narsapur, by his proceedings dated 23.01.1988, cancelled the D-Form patta on the ground that the petitioner did not bring the land to cultivation except raising coconut trees. The said order was challenged before the Joint Collector, West Godavari District, and he dismissed the appeal by his proceedings dated 30.11.1988. Challenging the same, a revision was preferred before the Commissioner, Land Revenue, and the same was also dismissed on 07.11.1990. Then the petitioner approached the Government of Andhra Pradesh in revision and all the orders passed by the authorities were set aside under G.O.Ms.No.946, dated 23.10.1991, and the petitioner was permitted to retain the land in question on payment of market value prevailing in the year of assessment i.e., 1977. In pursuance of the same,

the petitioner paid an amount of Rs.18,150/- as assessed by the revenue authorities. Thereafter, the said Subba Raju and another person filed W.P.No.15519 of 1991 challenging the said G.O.Ms.No.946, dated 23.10.1991, and the same was dismissed by a Division Bench of this Court on 04.10.1996 and thus, the Government Order has become final. Now, at the instance of the same Subba Raju, the fourth respondent appears to have issued a notice on 25.01.2018 asking the petitioner to show cause as to why the D-Form patta shall not be cancelled as the said patta was issued by closing the drainage channel. Challenging the same, the present Writ Petition is filed.

Learned Counsel for the petitioner submits that the fourth respondent has no jurisdiction to cancel the D-Form patta, which was confirmed by the Government in G.O.Ms.No.946, dated 23.10.1991, and affirmed by the Division Bench of this Court on 04.10.1996. He further submits that the impugned action is taken with a *mala fide* intention at the instance of Sri Subba Raju, who lost before this Court. However, he states that the petitioner submitted his explanation on 01.02.2018. But, by oversight, he could not point out the lack of jurisdiction of the fourth respondent.

In the circumstances, this Writ Petition is disposed of directing the fourth respondent to consider the explanation submitted by the petitioner on 01.02.2018 to the notice issued on 25.01.2018, examine whether he has jurisdiction to cancel

the D-Form patta already granted in favour of the petitioner, and pass appropriate orders in accordance with law. Till the final orders are passed, the fourth respondent shall not interfere with the possession of the petitioner. The miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. There shall be no order as to costs.

07.02.2018
vs

(A.RAMALINGESWARA RAO, J)

