

HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION No.27656 of 2007

ORDER:

The petitioner claims that he has been in possession and enjoyment of the land in an extent of 30.66 square yards situated in Chinnamandava Village, Chintakani Mandal, Khammam District, which was allotted to him by the Gram Panchayat long back, and that he has constructed a tiled house therein in the year 1996. The petitioner further claims that he was also issued possession certificate dated 21.06.2006 by the Tahsildar concerned certifying his possession over the said land for above twelve years. While so, it is the case of the petitioner that to his surprise, the first respondent, Tahsildar, Chintakani, has issued the impugned notice dated 12.12.2007 stating that the subject property belongs to asurkhana (peerla chavidi) and was notified as such in the Gazette issued by the Government and therefore the possession certificate issued in his favour in respect of the said land has been cancelled. The petitioner was further directed to hand over the possession certificate in the office of the Tahsildar. Aggrieved thereby, the petitioner filed the present writ petition contending that no show-cause notice was issued to him before issuing the impugned notice enabling him to submit his explanation and therefore the same was issued in violation of the principles of natural justice and cannot be sustained.

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

As rightly contended by the learned counsel for the petitioner, the impugned notice did not refer to any prior show-cause notice having been issued to the petitioner. Thus, on the face of it, it is a unilateral decision

taken by the first respondent without issuing the petitioner a prior show-cause notice and without calling for his explanation thereto. The impugned notice is, therefore, in gross violation of the doctrine of *audi alteram partem* and liable to be set aside on this sole ground.

So far as the contention of the petitioner that the subject property is not a wakf property is concerned, it is not for this Court to go into this disputed question of fact in exercise of writ jurisdiction.

The writ petition is accordingly allowed setting aside the impugned notice dated 12.12.2007 on the ground of being in violation of the principles of natural justice. It is however left open to the first respondent to take steps in accordance with law, if the possession certificate of the petitioner requires to be cancelled.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

Dt: 23.07.2018.  
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T.AMARNATH GOUD, J

