

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION NO.16482 OF 2007

ORDER:

This writ petition is filed challenging the proceedings of the first respondent in Rc.DT/31/2004, dated 24.07.2007, resuming the lands of the petitioner admeasuring Ac.8-10 cents in Sy.No.581, Ac.24-98 cents in Sy.No.577 and Ac.0-66 cents in Sy.No.591, situated at Konidena Village, Ballikurava Mandal, Prakasam District.

2. It is the case of the petitioner that her husband was the owner of subject lands and that after his death, she and her son Koteswara Rao inherited the same in the year 1975. The Revenue Authorities also issued pattadar passbook in favour of the petitioner and she has been in possession and enjoyment of the subject lands. While so, the second respondent issued a notice in R.C.D.813/2004, dated 04.08.2004, stating that one Pallapu Ramaiah and 26 others filed a petition before the District Collector, and in that regard, she should attend before him on 16.08.2004 at 11.00 am along with all the records in respect of land admeasuring Ac.25-04 cents in Sy.Nos.577 and 591. The petitioner attended before the second respondent along with the documents. The matter went several adjournments till 2007 without conducting any enquiry. Thereafter, the second respondent without giving any notice to the petitioner, issued another notice in R.C.C/813/2004, dated 30.05.2007, directing her to be present before the first respondent on 11.06.2007. Subsequently, the first respondent passed the impugned order dated 24.07.2007, stating that he was

directed to resume the lands by the order of the second respondent dated 12.07.2017 and proceeded to resume the land admeasuring Ac.8-10 cents in Sy.No.581 classifying that it is a tank Poramboke and the lands admeasuring Ac.24-98 cents in Sy.No.577 and Ac.0-66 cents in Sy.No.591 classifying as Inam Punja. Challenging the same, the present writ petition is filed.

3. The first respondent filed a counter affidavit stating that he has communicated the order of the second respondent to the petitioner by way of substituted service.

4. Sri Ghanta Rama Rao, learned Senior Counsel appearing for Sri Ghanta Sridhar, learned counsel for the petitioner, submitted that the order of the second respondent dated 12.07.2007 has not been communicated to the petitioner and that the impugned order passed by the first respondent dated 24.07.2007 is also issued without any show cause notice and hence they are issued in violation of principles of natural justice and sought to set aside the same. He relied upon a judgment of the Supreme Court in **Government of A.P. Vs. Thummala Krishna Rao**¹, wherein it has been categorically held that when the disputed questions of facts with regard to the possession and title are involved, the authorities cannot take any unilateral decision.

5. Sri Bommagari Prabhakar, learned counsel for respondent Nos.3 to 17, who are claiming the benefits by virtue of resumption of lands and who have got impleaded in this writ petition, made his submissions.

¹ (1982) 2 SCC 135

6. It is apparent from the record that the orders passed are in gross violation of doctrine of *audi alteram partem* and the unilateral orders passed by the second respondent and copy of the same is not being furnished to the petitioner. The consequential order of resuming the lands is execution proceeding. The same also is not preceded by a notice. The substitute service as contended in the counter affidavit is also not substantiated. The action of respondent Nos.1 and 2 is arbitrary and highhanded. Hence, the writ petition is liable to be allowed.

7. For the aforesaid reasons, the writ petition is allowed setting aside the order of the first respondent in Rc.DT/31/2004, dated 24.07.2007, which is issued in pursuance of the orders of the second respondent dated 12.07.2007. However, the second respondent is at liberty to issue appropriate proceedings for resumption of lands, after giving reasonable opportunity to the petitioner by following due process of law. The second respondent shall also hear respondent Nos.3 to 17 before taking a decision. The second respondent shall complete the exercise within 8 weeks from the date of receipt of a copy of this order. This order is passed without going into the merits of the case and without deciding the possession and title of the subject lands. Miscellaneous petitions pending, if any, shall stand closed. No costs.

T.AMARNATH GOUD, J

Date: 14-09-2018
TJMR