THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

C.R.P.No.1086 of 2011

O R D E R :

This Civil Revision Petition is filed under Section 91 of the A.P. (Telangana Area) Tenancy and Agriculture Lands Act, 1950 (for short 'the Act') challenging the order dated 27.12.2008 in case No.F2/5324/20067 of the Joint Collector, Ranga Reddy District confirming the order dt.10.01.2006 of the Special Grade Deputy Collector & Revenue Divisional Officer, Ranga Reddy East Division in file No.L/7181/1980.

2. Heard Sri M.V.Durga Prasad, Counsel for the petitioners and Sri G.L.Narasimha Rao, counsel for respondent No.1.

3. The following facts are not in dispute: Certificate under Section 38(E) of the Act was granted to one Anji Reddy and others in respect of lands to an extent of Ac.0-38 gts in sy.No.3, Ac.1.15 gts in sy.No.4, Ac.1.20 gts in sy.No.5, Ac.1.16 gts in sy.No.6, Ac.3.34 gts in sy.No.2, Ac.0.32 gts in sy.No.7, Ac.6.34 gts in sy.No.8, Ac.8.00 gts in sy.No.118, Ac.5.35 gts in sy.No.122 situated at Kappapahad village and Ac.1.03 gts in sy.No.29, Ac.0.12 gts in sy.No.30, Ac.0.04 gts in sy.No.31, Ac.0.31 gts in sy.No.67/7A, Ac.0.31 gts in sy.No.67/7B, Ac.0.31 gts in sy.No.67/7C, Ac.0.33 gts in sy.No.67/7D, Ac.1.00 gts in sy.No.67/7E, Ac.0.01 gts in sy.No.67/7F situated at Khanapur Village vide proceedings dt.31.07.1975 of the Revenue Divisional Officer, RR East Division. This was questioned by the 1st respondent/landholder in an appeal B4/20869/75 before the Joint Collector, RR District. By order dated 30.07.1979, the said appeal

was allowed and the matter was remanded to the Revenue Divisional Officer, Ranga Reddy for fresh decision. Thereafter 26 yeas later, the Special Grade Deputy Collector & Revenue Divisional Officer, Ranga Reddy East Division at Malakunta allowed the said appeal on 10.01.2006 in proceedings No.L/7181/1980.

4. The said order was questioned by the petitioners, who claim to be purchasers from the protected tenants i.e., Anji Reddy and others, before the Joint Collector-I, Ranga Reddy District under Section 90 of the Act. The said appeal was numbered as F2/5324/2006 and was dismissed by the Revenue Divisional Officer by order dated 27.12.2008.

5. Challenging the same, this revision is filed.

6. Counsel for the petitioners contend that the Joint Collector, who considered the Case No.L/7181/1980, allowed it at the instance of the Revenue Divisional Officer without issuing any notice either to the protected tenants or to the petitioners who purchased from the said protected tenants on 28.10.1992. He contended that this point was specifically urged before the Joint Collector in the appeal No. F2/5324/2006 filed before him, but the Joint Collector did not give any finding thereon. He contended that the order passed by the Revenue Divisional Officer as well as the Joint Collector cannot be sustained, since they have been passed in violation of principles of natural justice. He further prayed that both the orders be set aside and the matter be remanded back to the Revenue Divisional Officer to decide the case after issuing notices to the petitioners.

7. Counsel for the 1st respondent disputed the contention of the counsel for the petitioners that notices were not served in proceedings before the Revenue Divisional Officer either on the protected tenants or on the petitioners and orders were passed behind their back.

8. However, he is not able to place any material before this Court to prove that notices issued by the Revenue Divisional Officer were served on the petitioners or protected tenants in question, before the Case No.L/7181/1980 was decided by Revenue Divisional Officer on 10.01.2006.

9. The order dated 10.01.2006 of the Revenue Divisional Officer in Case No.L/7181/1980 merely records that notices were "issued" to both parties and that the protected tenants did not represent themselves in the case nor they engaged any advocate. The said order does not state that the notices issued by the Revenue Divisional Officer to the protected tenants were "served" on them. In any event, since the matter had been pending for 27 years, it is not open to the Revenue Divisional Officer to rely on any notices issued in 1979 immediately after the case was remanded and to contend that since the notices were issued, he had complied with the principles of natural justice.

10. Admittedly, the contention that notices not served on the petitioners, who were purchasers from the protected tenants, was specifically raised by the petitioners before the Joint Collector in the appeal F2/5324/2006 filed by them before the Joint Collector. Even the Joint Collector does not record any finding in his order

that notices issued by the Revenue Divisional Officer had been served on the protected tenants or the petitioners.

11. In this view of the matter, since there is no evidence on record to establish that notices of the hearing of the case No.L/7181/1980 were actually served on the protected tenants or on the petitioners before the said order came to be passed by the Revenue Divisional Officer, the order dated 10.01.2006 in proceedings No.L/7181/1980 of the Revenue Divisional Officer as well as the order dated 27.12.2008 in case No.F2/5324/2006 of the Joint Collector are liable to be set aside and are accordingly, set aside.

12. The matter is remanded back to the Revenue Divisional Officer to adhere to the Government Orders, circulars and memos issued by the Government from time to time for granting patta and pass appropriate orders based on the records and if no record is available, the authority concerned is directed to reconstruct the record and pass appropriate orders within three months from the date of receipt of a copy of this order.

13. With the above direction, this Civil Revision Petition is disposed of. There shall be no order as to costs.

Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.SATYANARAYANA MURTHY,J

29.01.2018
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