

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No.8540 of 2018

ORDER :

Heard the learned counsel for the Petitioner and learned Government Pleader for the respondents.

2. It is a case of the petitioner that the Mandal Revenue Officer, Srikalahasti Mandal, assigned the land to an extent of Ac.1.38 cents in Sy.No. 190-3, an extent of Ac.1.36 cents in Sy.No. 190-4, an extent of Ac.1.33 cents in Sy.No. 190-5 and an extent of Ac.0.90 cents in Sy.No. 191-6, totalling an extent of Ac.4.97 cents situated at Poli Village, Srikalahasti Mandal, vide docket No.269/4/1397, dated 26.01.1988, under Ex-servicemen quota to one Gonugodugu Gopalaiah. The said Gopalaiah served the Army during the period from 1962 to 1986 and retired in the rank of Soldier. His name was incorporated in the revenue records. He died on 14.06.1999 and the wife of the said Gopalaiah, who succeeded the said property, was also given Pattadar Pass Book and Title Deed by the Mandal Revenue Officer, Srikalahasti. Her name was also mutated in the revenue records. She sold the land on 28.02.2007 in favour of the petitioner. When the vendor did not execute a registered sale deed, the petitioner filed O.S.No.125/2007, on the file of Junior Principal Civil Judge, Srikalahasti for specific performance of agreement of sale and matter was settled after reference to Lok Adalath on 21.06.2008. When the petitioner went before the 5th respondent for Registration of the sale deed, the 5th respondent stated that the land belongs to Government. In those circumstance, the petitioner filed W.P.No. 17720/2008, stating that the land was assigned under ex-servicemen quota and there cannot be any

prohibition for registration of that land, after expiry of ten years. When the said Writ Petition was pending, the 3rd respondent issued a show cause notice on 28.01.2009 to the original assignee, alleging that the Patta was obtained by producing false certificate and he was asked to submit his explanation as to why the patta shall not be cancelled. Challenging the same, the petitioner filed W.P. No. 17720 of 2008 and though, initially, an interim stay was granted, the said Writ Petition was disposed of along with other matters by the Division Bench of this Court on 29.01.2016. The petitioner also filed W.P. 24587/2009, challenging the show cause notice dated 28.01.2009 and though an interim stay was granted on 31.12.2009 of the further proceedings, before the 3rd respondent, the said Writ Petition was ultimately disposed of on 26.12.2014. After disposal of the above Writ Petition, now, the 3rd respondent passed a final order on 22.01.2018, canceling the assignment made earlier and also upheld the order dated 14.12.2009, earlier passed and not communicated to the petitioner, canceling the assignment and also the subsequent sale deed. Challenging the same, the present Writ Petition is filed.

3. On perusal of the above, it is clearly disclosed that, when the 3rd respondent initiated proceedings for cancellation of Patta, by issuing a show cause notice on 28.01.2009, the petitioner challenged the said proceedings, by filing W.P.No.24587/2007. The said Writ Petition is disposed of with the following directions:

- (a) *The petitioners are given a further time of four weeks from the date of receipt of a copy of this order to file additional explanation or representation to the impugned notice together with documentary evidence, if any, in support of their claim.*
- (b) *The 3rd respondent examines the original record, conducts enquiry into the allegations set out in the*

notice dated 28.01.2009, passes an order and communicates the same to the petitioners.

- (c) If the final order is adverse to petitioners they are free to avail the remedy of appeal. After communication of order till the period available for appeal expires, the respondents shall not interfere with the possession or enjoyment of the petitioners of property covered by respective notices.*
- (d) In the enquiry, if it transpires that the matter need not be proceeded with further, appropriate orders are also passed to give quietus to the allegations made against the petitioners or original assignee. With the above observation, the writ petition is disposed of. No order as to costs.*

4. The petitioner did not file any additional explanation or representation to the said notice in pursuance to the above direction, but the 3rd respondent perused the original record and passed the impugned order. As per the direction No.3 above, if the final order is adverse to the petitioner, he was given liberty to file an appeal. But without availing such remedy, he filed the present Writ Petition. In view of the earlier order, the petitioner ought not have to file the present Writ Petition and should have invoked the remedy of appeal.

5. In view of the same, there is no ground to entertain the present writ petition. Accordingly, the Writ Petition is dismissed at the admission stage.

A.RAMALINGESHWARA RAO, J

Dated: 15th March, 2018

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