HON'BLE SRI JUSTICE S.V.BHATT

W.P. No.22667 OF 2004

ORDER:

Heard Mr.L.J.Veera Reddy for petitioners and the learned Assistant Government for Assignment.

The petitioners assail proceedings Ref.No.B1/1041(4)/2004 and B1/1041(3)/2004 dated 14.11.2004 cancelling the patta in favour of petitioners for an extent of Ac.3.78 cents in Survey No.783 and Ac.4.50 cents in Survey No.799/3 of Munnelli Village, D.Kodur Mandal, Kadapa District, as illegal, contrary to principles of natural justice and unconstitutional.

The petitioners claim petition land through alleged assignments dated 19.11.1977 and 15.12.1978 said to have been made by 2nd respondent. The 1st petitioner claims that in the year 1990, the respondents issued pattadar pass book/title deed for Survey No.783 in an extent of Acs.3.78 cents. The petitioners claim possession and also enjoyment of petition land under the assignments referred to above. While matters stood thus, on 27.09.2004, the 1st respondent issued notice calling upon the petitioners herein to appear before the 1st respondent with documents in support of their claim for the petition land. The petitioners submitted explanation. The 1st respondent keeping in view the complaint of unauthorised enjoyment or illegal claim for petition land by petitioners examined the issue and passed the impugned proceedings. The operative portions of the proceedings for convenience are excerpted hereunder:

"Verification of office records reveals that the land is treated as AWD in 1402 fasil but the name of Venkatappagari Ramaiah is entered as pattadar in 1411 fasil adangal. Had he been given DKT is 13787 fasil, the land could not have been treated as AWD in 1402 fasil Smt. Ramanjula Mariyamma has not produced any document to have her claim for the said land is not vindicated.

The land in S.No.781 extent 1.98 acres is entered in favour of Polu Rathna Kumari w/o. Maddi Reddy. But she has not appeared for enquiry nor submitted any document.

Physical verification of land reveals that nobody is in possession of the land. Going into details of the socio economic status of the claimants is required only when any of them had been in possession of the land. The documents are proved to be not bonafide as there are no DKT files nor corresponding entries in DKT Registers. Therefore it is safe to set aside all the tampered entries. Accordingly orders are hereby issued for deleting all tampered entries in respect of S.No.781 and 783 and the land is ordered to be treated as AWD. The Mandal Revenue Officer is requested to reassign the land afresh as per eligibility, including the present claimants, as decided in Grama sabha."

"As could be seen from list of S.C. Beneficiaries S.No.799 was assigned to 3 S.Cs by name Rajanala Penchalaiah, R.Obulesu, R.Narasimhulu at the rate of 1.50 cents each. There may be some more documents which have not come to light in respect of the said Survey numbers. There are no cancellation orders available in which the land assigned to SCs are set aside. But the following O.Cs who appeared for enquiry submitted the following documents. As per the said documents, the lands in S.No.799 and 798 are said to be assigned to the following assignees.

Sl.No.	Name of the Assignee	DKT No. / 1-B Khata No.	Extent Classified in 798	Extent Classified in 799
1.	O.Venkatrami Reddy s/o.Balarami Reddy Munnelli	28/96 dt.15.12.85 1143	4.00	_
2	V.Venkata Reddy s/o.Chalamaiah, Govindayapalli	44/96, dt.14.08.87	_	4.00
3	P.Mallaiah S/o.Venkataiah Munnelli	128	_	1.00
4.	P.Jayarami Reddy, Munnelli	1219	_	4.50
5.	S.Ramulu, w/o.Maddi Reddy, Govindayapalli	71/1411 dt.30.06.02	1.80	_
6.	S.Maddi Reddy s/o,.Kasi Reddy, Gonvidayapalli	69/1411, dt,30.06.02	2.00	_
Total			7.80	9.50

The extent actually available is less than the assignments granted. There are no cancellation orders of earlier assignments noted. Verification of records shows that entries are indiscreetly made in village accounts. Except the assignments granted to S.Ramulu and S.Maddi Reddy no other assignments are boanfide as they are not found place in office records. Though the assignment4s granted to S.Ramulu and S.Maddi Reddy are bonafide their possession is not in consonance with pattas granted to them. Field inspection reveals that the land is not under possession of any body. Further the extents assigned is not denoted by sub-division numbers and there are no sub-division records for proper identification of the lands as per assignment if at all we treat them as valid. There is lot of confusion on field with regard to the claim of land as per documents and possession on ground. It is therefore decided to set aside all the entries in respect of S.No.798 and 799 and the land treated as AWD. Mandal Revenue Officer, B.Kodur is requested to implement the order in all records including Pattadar Pass Books. He is further instructed to follow the below mentioned steps to settle the land problem and to render justice to the bonafide and eligible claimants.

1. No fresh encroachments should be allowed and if anybody tries to make fresh encroachments case may be booked under Land Grabbing Act and Gunda Act.

2. Mandal Revenue Officer is requested to get the land surveyed under personal supervision with the assistance of Mandal Revenue Officer, Badvel and Mandal Revenue Officer, Gopavaram.

3. If there are any old S.J. occupations and if the land is truly cultivated they may be regularized as per their eligibility.

4. The remaining waste land which is not brought to cultivation shall be treated as unoccupied land and shall be distributed to the local landless poor SCs selected in Grama Sabha.

5. The claims of SC petitioners may also be considered afresh if they are otherwise eligible."

Hence the writ petition.

Mr. Veera Reddy contends that the 1st respondent does not have jurisdiction to cancel the assignment or pattadar pass book. The proceedings are vitiated by no enquiry or non-consideration of the explanation given by the petitioners. According to him, once pattadar pass book/title deed is issued, the cancellation of assignment could be either under the A.P. Assigned Lands (POT) Act or for the grounds permitted under Board Standing Order 15 paragraph 18. According to him, the remedy of appeal is ineffective having regard to the findings recorded by the 1st respondent. Hence, he prays for setting aside the proceedings.

Mr.Delhi Babu appearing for respondents places strong reliance on the findings recorded by the 1st respondent and contends that the respondents, if accept the genuineness or legality of the basic document on which the petitioners are relying on then the jurisdiction, authority etc. can be examined by the Court. In the case on hand, the petitioners if were really granted assignments in the year 1977 or 1978, the possession said to have been granted in favour of assignees/petitioners is reflected in Adangal/Pahani. The petitioners to discharge onus of enjoyment of petition land did not file documents before the 1st respondent and on the other hand, the physical verification on ground by the authorities disproves the grant of assignment etc. He relies on the following reply in the counter affidavit.

> "...there is no recorded evidence in support of the assignment of the land in question alleged to have been made to the writ petitioners. In fact no assignment was granted to the writ petitioners but they managed fictitious entries in their favour in village accounts and basing on this tampered entries, they are claiming right over the land in question. As such orders were issued setting aside the tampered entries in the village accounts with a direction to the Mandal Revenue Officer to re-assign the land afresh to the eligible claimants including the writ petitioners. As such, the question of contravention of DKT patta which is not at all existing does not arise. Hence, the contention of the writ petitioners that the Revenue Divisional Officer has no jurisdiction for issue of the impugned orders is not applicable here. It is further submitted that under power conferred by B.S.O. 12 the Revenue Divisional Officer is competent to rectify any defective entries either on suo-motu or revision. The Revenue Divisional Officer being Jamabandi Officer is also competent to rectify the defects found in scrutiny of village accounts during the Jamabandi."

He prays for dismissing the writ petition.

This Court would have examined the legal objections raised by the petitioners, if the petitioners have discharged the burden of proving actual enjoyment of the petition land in any manner known to law. In the case on hand, the 1st respondent is not dealing with a case where the genuineness of assignment is accepted by the revenue department. The 1st respondent keeping in view the objections raised physically verified the land and personally perused the record and has recorded the findings excerpted above. In a case like this, a few omissions if any in the proceedings impugned in the writ petition by themselves ought not to be accepted by this Court particularly, in exercise of judicial review under Article 226 of the Constitution of India. The petitioners since have not placed material before the 1st respondent as well as before this Court to prove the possession which is traced to the said assignment, this Court is not in agreement with the contentions raised by the petitioners. The petitioners have failed to prove their entitlement to petition land to examine the merits of the proceedings impugned in the writ petition. For the above reasons, the writ petition fails and is accordingly dismissed. No order as to costs.

Miscellaneous petitions, pending if any, shall stand closed.

S.V.BHATT,J

Date:14.08.2018
Stp