

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.9366 of 2018

ORDER:

In this writ petition, under Article 226 of the Constitution of India, the grievance of the writ petitioner is with regard to the passing of the impugned order, dated 21.10.2017, in Appeal SRA No.5/2017/F2 without providing a proper, fair, reasonable and just opportunity of hearing to the petitioner.

2. I have heard the submissions of Smt *Vasudha Nagaraj*, learned counsel appearing for the petitioner, and of the learned Government Pleader for Revenue (A.P.) appearing for the respondents 1 & 4, and of the learned Government Pleader for Tribal Welfare (A.P.) appearing for the respondents 2 & 3. I have perused the material record.

3. Learned counsel for the petitioner, while reiterating the pleaded case of the petitioner, would submit that the Special Deputy Collector (TW), KR Puram, allowed the claim of the petitioner by order, dated 19.05.2017, in respect of Ac. 2.13 cents and Ac. 0.19 cents in R.S.Nos.550/2 & 550/3 and that subsequent to the passing of the said orders, the 5th respondent herein preferred an appeal before the 2nd respondent and that the 2nd respondent issued a notice, dated 05.10.2017, stating that the appeal would be heard, on 21.01.2017, and that on that day, the petitioner, who is a tribal, appears to have appeared before the appellate authority and that on the very same day, the appeal was allowed and an order detrimental to the interests of the petitioner, who is a tribal woman, was passed without providing an

opportunity of availing legal assistance by her for arguing the appeal on her behalf. Having stated so, learned counsel for the petitioner would submit that the manner in which the appeal is disposed of is not in consonance with principles of natural justice and, therefore, the order impugned may be set aside and the appeal may be remitted to the appellate authority i.e., the 2nd respondent for fresh disposal, in strict accordance with procedure established by law, after giving an opportunity of detailed hearing to the petitioner herein.

4. Learned Government Pleader for Tribal Welfare, while supporting the order impugned, would submit that the order is a reasoned order though it was passed on the first date fixed for hearing and that the order was passed in the presence of the petitioner and, therefore, the writ petition is unsustainable.

5. Having regard to the facts and submissions and having perused the order impugned, this Court is satisfied that the lower appellate authority ought to have given a reasonable opportunity of hearing to the petitioner by giving her sufficient time to engage a competent counsel to represent her in the appeal before the appeal was heard and disposed of on merits. As the same was not done, this Court is of the considered view that the order impugned brooks interference.

6. In the result, the Writ Petition is allowed and the order impugned is set aside and the appeal in AS SRA No.5/2017/F2 is remitted to the 2nd respondent, i.e., Agent to the Government, who is the District Collector, West Godavari District, Eluru, for fresh disposal on merits and in accordance with procedure established

by law, however, after giving an opportunity of hearing to the petitioner. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order.

M.SEETHARAMA MURTI, J

Date: 2nd April, 2018

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