HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.20151 OF 2007

ORDER:

The writ petition is filed to declare the proceedings of the 3rd respondent-R.D.O dated 01.11.2002, relating to the cancellation of the patta granted in favour of the petitioner and which was confirmed by the 2nd respondent-Joint Collector by his proceedings dated 30.12.2004, as illegal and contrary to law.

The brief facts of the case, according to the petitioner, so far as they are relevant, for the purpose of disposal of the writ petition, are that the petitioner does not own a house either in Koripalle Village or in Addagudur Village; the Mandal Revenue Officer issued a house site patta admeasuring an extent of Ac.0.03 gts in Sy.No.201 of Addagudur Village, Mothkur Mandal, Nalgonda District on 22.6.1999; in patta certificate the northern side boundary was wrongly mentioned as the petitioner's own house; due to the political disputes in the village some of the persons inimical towards the petitioner filed a petition before the 3rd respondent for cancellation of his house site patta; the 3rd respondent-R.D.O issued a show cause notice, pursuant to which the petitioner submitted an explanation; without considering the explanation, the 3rd respondent-Revenue Divisional Officer cancelled the patta by his order dated 1.11.2002; aggrieved by the said order of the Revenue Divisional Officer, the petitioner filed an appeal before the Joint Collector and the Joint Collector also confirmed the same; the petitioner filed a suit in O.S.No.70 of 2001 on the file of the Junior Civil Judge, Ramannapet against one Alijala Prakasham when he was trying to interfere with his possession and enjoyment of the property i.e. house site patta for an extent of Ac.0.03 gts in Sy.No.201 which was allotted to the petitioner by the 4th respondent; the said suit was decreed on 09.09.2002; the petitioner does not have any house site except the plot granted by the 4th respondent-Mandal Revenue Officer.

Counter affidavit has been filed by the Assistant Collector, Bhongir on behalf of the respondents 1 to 4. In the said counter affidavit, it is stated *inter alia* that the 3rd respondent-Revenue Divisional Officer is empowered to review the orders passed by the Tahsildar under Section 158 of Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 (for short, “the Act”); Mandal Revenue Officer, Mothkur submitted a report to the Revenue Divisional Officer, Bhongir on 1.8.2002 stating that in the year 1983-84, land was acquired for providing house sites to Scheduled Castes in Addagudur Village and 161 house site pattas were issued and 10% of house plots were reserved for community purpose out of which one house plot was allotted to the petitioner by the then Mandal Revenue Officer in the year 1999, but the petitioner is having own house bearing asbestos sheets and also having Ac.9.15 ½ gts of dry land and Ac.1.30 gts of wet land making a total of Ac.11.05 ½ gts; petitioner constructed Gobar Gas plant and Toilets in the allotted house site, the villagers have objected the same and requested to cancel the house site patta granted to him; the Mandal Revenue Officer, Mothkur recommended for cancellation of house site patta granted to the petitioner as he is ineligible to get the house site patta; accordingly the petitioner was issued a show cause notice dated 14.8.2002 calling upon him to submit explanation as to why his patta certificate should not be cancelled as the petitioner is having Ac.12.00 gts of patta land and his annual income is more than Rs.11,000/-; petitioner submitted his explanation which is not convincing nature and differing with that of the report of the Mandal Revenue Officer, Mothkur; as the explanation submitted by the petitioner was not satisfactory, house site patta granted to him was cancelled by the Revenue Divisional Officer by order dated 01.11.2002;

petitioner filed an appeal before the Joint Collector, who has also confirmed the orders of the 3rd respondent-Revenue Divisional Officer, Bhongir; as such, the cancellation of the house site patta issued by the 4th respondent-Revenue Divisional Officer, is valid.

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue.

It is contended by the learned counsel for the petitioner that under Section 158 of the Act, the Revenue Divisional Officer is not competent to cancel the house site patta because the appeal lies to the Revenue Divisional Officer against any decision or order passed by the Tahsildar and as no order has been passed by the Tahsildar in this case, the Revenue Divisional Officer does not have any jurisdiction to cancel the house site patta granted to the petitioner. Learned counsel for the petitioner has also contended that the Joint Collector in his order has mentioned three issues which are not correct. He also contended that in the order of the Joint Collector, it is mentioned that in the patta which was granted to the petitioner, the boundary on the Northern side was shown as his own house which shows that the petitioner has one house before allotment of the house site to him. Secondly, the Joint Collector observed that in the suit filed by the petitioner i.e. O.S.No.70 of 2001 in the Court of the Junior Civil Judge, Ramannapet, the suit schedule area was shown as Ac.0.03 gts in Sy.No.201 as house plot and because of this suit, the Joint Collector came to the conclusion that the petitioner is the owner of the another plot. Thirdly, the Joint Collector relied upon the gift deed executed by the father-in-law of the petitioner in favour of the daughter of the petitioner subsequent to the allotment of the plot to the petitioner. Learned counsel for the petitioner also contended that all these three issues which are mentioned in the orders of the Joint Collector are not correct. As the plot which is gifted by the father-in-law of the petitioner, is shown as the boundary to his open plot and that the plot shown in O.S.No.70 of 2001 are one and the same which is given to the petitioner by way of house site patta and hence the order of the Joint Collector is bad.

On the other hand, the learned Assistant Government Pleader for Revenue contended that the Joint Collector is the competent authority to cancel the patta and Section 158 of the Act does not apply to the present case in view of the fact that there is a recital in the house site patta itself that the competent authority is the Revenue Divisional Officer.

As seen from the record, in the house site patta dated 22.6.1999 itself, there is a categorical recital stating as follows:-

> "The land shall be resumed, if in the opinion of the Revenue Divisional Officer any of the conditions mentioned above have been contravened. If any question arises whether there was a contravention of any of the conditions of the grant or not, it shall be referred to the Revenue Divisional Officer and his decision shall be final."

As seen from the above said recital, the Revenue Divisional Officer has got power to cancel the house site patta granted in favour of the petitioner. The contention of the petitioner that the plot gifted by the father-in-law of the petitioner to his daughter is shown as boundary to the house site plot which is given to him, may not be correct, because the house site patta was granted to the petitioner in the year, 1999 and gift deed was executed by the father-in-law of the petitioner in the year 2002 and the Joint Collector categorically pointed out that in the house site patta which was given to the petitioner, the Northern side boundary was shown as 'own house' which shows that the petitioner is having a house site before allotment of the house plot in question. Apart from having one more house plot, admittedly, the petitioner violated the conditions of the patta by not constructing a house within the period stipulated in the patta. Admittedly, the petitioner constructed Gobar Gas plant and Toilets in the house site patta granted to him and hence there are no reasons to interfere with the orders of the Revenue Divisional Officer dated 1.11.2002 as confirmed by the Joint Collector on 30.12.2004. There are no merits in the writ petition and the writ petition is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

Miscellaneous Petitions, if any pending in this writ petition shall also stand closed.

KONGARA VIJAYA LAKSHMI, J

Date:11.07.2018.
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HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

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