

HON'BLE SRI JUSTICE S.V. BHATT

W.P. No.14818 OF 2018

ORDER:

Heard Mr.K.Rama Rao holding for Mr.V.R.Avula for petitioner and the learned Assistant Government Pleader for respondents.

The petitioner challenges proceedings Rc.B/45/2015 dated 19.04.2018 passed by 4th respondent as arbitrary, illegal and unconstitutional.

The admitted circumstances are that on 25.11.1985, the 4th respondent assigned an extent of Ac.5-00 in Survey No.695 of Akaveedu Village, Racherla Mandal, Prakasam District in favour of petitioner. According to petitioner, the petitioner has complied with the conditions incorporated in the assignment order and has also brought the land under cultivation. The petitioner along with the writ affidavit has filed a few annexures namely, Adangal, pattadar pass book etc. to evidence that the petitioner's possession is accepted, entries are also made in revenue records and pattadar pass book is also issued. While matters stood thus, the 4th respondent issued notice to petitioner calling upon the petitioner to show cause why the assignment dated 25.11.1985 shall not be cancelled as petitioner failed to bring the land under cultivation within three years from the date of assignment. The petitioner has submitted explanation. The 4th respondent has passed the order impugned in the writ petition both cancelling the assignment and directing resumption of petition land to Government.

Respondent No.4 filed counter affidavit stating that the petitioner failed to bring the assigned land under cultivation within the stipulated period and that the subject land is required for public purpose.

Though it is not the intention of 4th respondent to speak the reason for ordering the resumption, unmindfully the same is disclosed in the order dated 19.04.2018. The undisclosed reason, which is now basis for the order impugned in the writ petition, is that the said land is required for public purpose. The 4th respondent further has not considered the explanation much less the revenue records from 1985 till 2018. The order is completely laconic and reflects non-application of mind and the 4th respondent ought to have examined whether after 33 years, the 3 year condition incorporated in the assignment is really available or is it ruse to cancel the assignment made in the past. Further, the order of 3rd respondent/Revenue Divisional Officer is not in line with the jurisdiction to be exercised by the 4th respondent. The exercise of jurisdiction for this purpose is never appreciated by courts of law. The order impugned in the writ petition is set aside for the following reasons:

- a) the order does not reflect the reasons for which cancellation of assignment is warranted.
- b) order refers to the fact that the land is required for public purpose.
- c) the 4th respondent has not stated whether the order is passed under Board Standing Order conferring

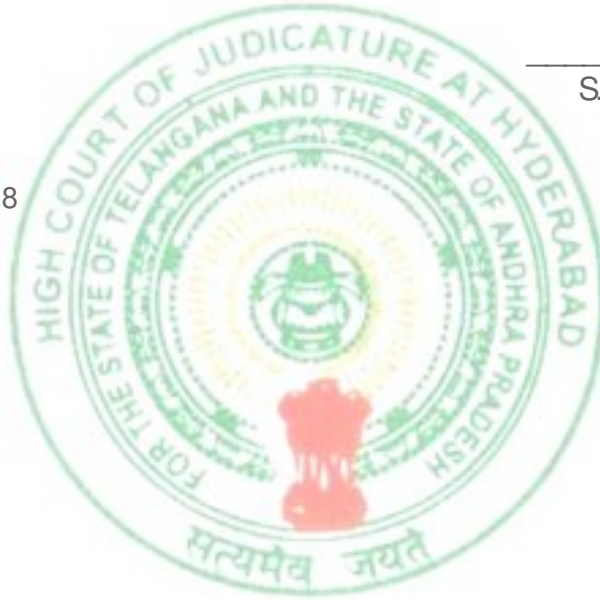
jurisdiction on 4th respondent to exercise authority to cancel patta by referring to the condition of not bringing the land under cultivation within three years from the date of assignment.

The writ petition is ordered accordingly. It is open to authorities to initiate action in accordance with law, if circumstances exist.

No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

Date:06.06.2018
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S.V.BHATT, J