

HON' BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.10955 of 2006

ORDER:

This writ petition is filed to declare the proceedings of the 2nd respondent-Revenue Divisional Officer, Kavali, dated 19.08.2005, as illegal and arbitrary. By the said proceedings dated 19.08.2005, the Chairman Co-operative Farming Society and Revenue Divisional Officer, granted lease patta in favour of the unofficial respondent (R.4) - Kalluri Subbaramaiah, for an extent of Ac.2.50 gts. in Sy.No.51/3 of Velagapadu Village, Kaligiri Mandal.

2. The brief facts, in so far as they are relevant, for the disposal of this writ petition, are that the petitioner was granted D-Form Patta on 13.03.1968 by the then Tahsildar, Atmakur Taluk, Nellore District, in an extent of Ac.3.16 gts., in Sy.No.51/3 of Velapagadu village; since then the petitioner has been cultivating the same; when the respondents tried to cancel the D-Form patta without giving any notice, the petitioner filed WP No.3040 of 2006 seeking a direction not to cancel the D-Form patta and the said writ petition was dismissed by this Court observing that the writ petition was filed with vague allegations and if patta has to be cancelled on any ground, the competent authority has to issue notice to the assignee and afford reasonable opportunity; after receipt of the copy of the order, the 2nd respondent hurriedly passed an order on 19.08.2005 granting lease patta in favour of the 4th respondent; the 2nd respondent did not cancel the D-Form patta, which was given in the year 1968.

3. A counter-affidavit was filed by the 3rd respondent-Mandal Revenue Officer, Kaligiri Mandal, stating *inter-alia* that a Cooperative

Joint Farming Society was formed in the village to make the lands fit for cultivation collectively by the beneficiaries; the Revenue Divisional Officer will select the beneficiaries and grant the lands on lease, the writ petitioner is one of the beneficiary of the scheme and she was granted lease for an extent of Ac.3.10 in Sy.No.51/3 of Velagapadu village; according to the condition of the grant, the lessee has to bring the land under cultivation within two years; after inspection of the Cooperative Joint Farming Society, the officials noticed that the petitioner failed to cultivate the same; the petitioner is not residing in the said village; the Revenue Divisional Officer has issued a notice dated 11.08.2004 to the writ petitioner, but the notice could not be served and a substituted service was done on 08.09.2004; the Revenue Divisional Officer issued orders on 22.10.2004 resuming the land and an extent of Ac.2.50 in the same survey number was granted on lease in favour of the 4th respondent by the 2nd respondent on 19.08.2005; the petitioner filed an appeal before the Joint Collector challenging the said allotment in favour of the 4th respondent on 20.11.2004 and the said appeal was dismissed on 16.03.2006 and the said fact was suppressed by the petitioner; according to condition of grant of lease, the lessee has to bring the lands under cultivation within two years; as the petitioner violated the conditions of the lease, the lands were resumed.

4. When the writ petition came up for admission on 01.06.2006, as the petitioner did not implead the person in whose favour the lease has been granted, the petitioner was directed to implead the said person. The petitioner filed WP MP No.14635 of 2006 seeking impleadment of the 4th respondent and the same was ordered and *status-quo* order was granted on 15.06.2006. However, as the notice could not be served on the 4th respondent, on 23.06.2011 liberty was

given to the petitioner to serve the notice on the 4th respondent with a condition that if the petitioner failed to serve the notice on the 4th respondent within two weeks, the writ petition shall stand dismissed as against the 4th respondent, without further reference to the Court and the said conditional order was given effect to when the petitioner failed to comply with the same and the writ petition was dismissed as against the 4th respondent on 20.08.2011.

5. Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for the Revenue. Perused the record.

6. As seen from the record, the petitioner did not bring the lands under cultivation within the stipulated period of two years from the date of lease and hence, she violated the conditions of the lease. This fact came to the light when the revenue officials inspected the subject land. Accordingly, the Revenue Divisional Officer issued notice to the petitioner on 11.08.2004 and as the notice could not be served on the petitioner, as she was not residing in the said village, notice was made by way of substituted service on 08.09.2004 and resumption orders were passed on 22.10.2004, much prior to the filing of the writ petition. *Status-quo* order was granted on 15.06.2006, by which time, the lease was already granted in favour of Kalluri Subbaramaiah-4th respondent. As the writ petition itself was dismissed as against the 4th respondent, no orders can be passed adversely affecting his rights without hearing her. Further, the appeal filed by the petitioner challenging the resumption orders of the Revenue Divisional Officer, was dismissed on 16.03.2006 and against the said order, the petitioner has not filed any appeal. Suppressing the said fact, the petitioner filed the present writ petition.

7. As per the conditions in the lease, the petitioner has to cultivate the lands within two years, but the petitioner failed to cultivate the same and hence, the Revenue Divisional Officer, resumed the said lands and allotted part of the land in favour of the 4th respondent. The allotment of the said lands to the 4th respondent is not challenged by the petitioner and the writ petition was also dismissed as against the 4th respondent, as the petitioner failed to serve the notice on him and therefore, no orders can be passed against the 4th respondent.

8. In view of the facts and circumstances explained above, the writ petition is dismissed. No order as to costs. Miscellaneous petitions, if any, pending in this writ petition, shall stand closed.

Date: 16.07.2018
BSS

KONGARA VIJAYA LAKSHMI, J



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