

HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.28103 of 2013ORDER

Heard Mr.N.Aswartha Narayana for petitioners, the learned Assistant Government Pleader for Assignment and Mr.G.Jagadeeswar for 4th respondent.

The petitioners challenge proceedings D.Dis.No.11862/2012/E4, dated 30.07.2013 of 1st respondent as violative of principles of natural justice, illegal and unconstitutional.

The subject matter of impugned proceedings is an extent of Ac.5-60 cents in Sy.No.87 of Akuledu Village, Snganamala Mandal, Anantapur District. The petitioners claim to be assignees of Ac.2-80 cents each in Sy.Nos.87-1 and 87-2 of Akuledu Village.

The 1st respondent through impugned proceedings by referring to the report of the Revenue Divisional Officer, Anantapur and the report of the Mandal Revenue Officer, Snganamala, directed cancellation of assignment in favour of petitioners. Hence, the writ petition.

To appreciate the prayer, the case of 4th respondent is briefly adverted to.

According to 4th respondent, the subject matter of proceedings is not assigned land but according to diglot it stands in the name of predecessor in interest of 4th respondent hence private patta land. The subject matter was and is private land and Government cannot and could not assign private patta land. The respondents at any rate without recourse to law do not have jurisdiction to assign patta land in favour of petitioners. By referring

to this complaint, enquiry was taken up and the following conclusion is recorded by the 1st respondent.

“But as per records of Diglot the Sy.No.87 to an extent of Ac.5-60 was recorded the name of Kuruba Mallappagari Basamma. Initially, the land was assigned in favour of Nadipi Narayana and Chinna Narayana each 2-80 in Sy.No.87 vide proceedings Dr.Dis.No.637/ 54, dt.27.03.75 by then Tahasildar. Later the land was resumed to Government through Tahasildar, Snganamala vide proceedings D.Dis.No.20/ 99, dt.19.01.1999 under violation of ‘D’ form patta conditions. Later the land was assigned to Hosuru Raghavendra, S/o.Mallikarjuna to an extent of Ac.2-80 in Sy.No.87-1 and Smt.Rajeshwari, W/o.Mallikarjuna to an extent of Ac.2-80 in Sy.No.87-2, the Tahsildar, Snganamala proceedings vide D.Dis.No.80/ 1408, dt.03.04.99.

As per the records available are as per report of the RDO and Tahasildar, the land in Sy.No.87-1 to an extent of Ac.2-80 and 87-2 to an extent of Ac.2-80 of H/ o.Raghunathapuram, Akuledu Village, Snganamala Mandal was assigned in favour of Hossur Raghavendra, S/o.Mallikarjuna and Hosur Rajeswari, W/o.Mallikarjuna vide proceedings Dr.Dis.No.84/ 1408, dt.03.04.1999 while treating as Government land though it is private land.”

Hence, the writ petition.

The counsel appearing for petitioners and 4th respondent firstly tried to convince this Court with their respective contentions and when they were allowed to peruse the record produced from the office of respondents 1 and 2, the counsel have noticed the difficulty in deciding the fact in issue between petitioners and 4th respondent under writ jurisdiction and agreed that the matter requires re-examination by 1st respondent.

For the limited purpose of disposing of writ petition, this Court is constrained to make the following observations:-

The enquiry into the assignment in favour of petitioners is taken up on the complaint of 4th respondent. At the outset,

respondents 1 to 3 ought to have examined the claim of 4th respondent and whether 4th respondent has in fact succeeded to the land owner recorded in the diglot. The 1st respondent refers to assignment in favour of Nadipi Narayana S/o.Ramappa etc., vide Dir.Dis.No.637/84, dated 27.03.1975 and cancellation of assignment through proceedings Dir.Dis.No.80/1408, dated 03.04.1999. The record now produced before the Court does not contain proceedings to which some reference is made in the proceedings dated 30.07.2013. At the same time, no effort is made by 1st respondent to verify the revenue records of subject land from 1970 onwards to appreciate the enjoyment either by petitioners or 4th respondent and the proceeding impugned does not contain reasons, but straight away conclusion is arrived by recording that subject matter of writ petition is private patta land. It may be true that the respondents do not have jurisdiction to assign private patta land. Even for correcting their own mistake proper reference to the revenue records could have rendered the proceedings tenable in judicial scrutiny. As these are omissions noticed prima facie in the impugned orders, which cannot independently be examined by this Court, without re-appreciating evidence, the counsel appearing for petitioners and 4th respondents consent to disposing of writ petition by this order.

(a) The proceedings impugned in the writ petition are set aside and the matter is remitted to 1st respondent for consideration and disposal afresh in accordance with law within three months from the date of receipt of a copy of this order.

(b) The petitioners as well as 4th respondent are given liberty to file additional reply/petition as the case may be by enclosing a copy of this order in support of their respective contentions.

(c) The 1st respondent calls for extracts of revenue records of subject land at least from 1965 onwards and summons the assignment file or register dealing with Nadipi Narayana etc., and passes orders.

(d) The parties are given opportunity of hearing by 1st respondent.

(e) The parties are permitted by 1st respondent to examine the record, which is forwarded by respondents 2 and 3.

(f) The *status-quo* in all aspects as on today is directed to be maintained by the parties till a decision is taken and communicated.

The writ petition is ordered accordingly. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

S. V. BHATT, J

Dt: 02-04-2018
Prv

