THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WVMP.No.1215 of 2017 in WPMP.No.13855 of 2016 in WP.No.10990 of 2016

and

WP.No.10990 of 2016

COMMON ORDER :

The 1st petitioner's father, by name Sri Jathanam Pedda Mallaiah, was admittedly assigned an extent of Acs.1.20 guntas in File No.A5/1082/1980 by the Tahsildar Vemulavada vide proceedings No.L/2232/80, dt.06.06.1980 in Survey No.63 situate at Sardarpur Village of Sircilla Mandal.

2. Thirty-four years later, on the basis of a report dt.17.02.2014 of the Mandal Revenue Inspector – I, that the land was not brought under cultivation within three years from the date of assignment (i.e., between 06.06.1980 and 05.06.1983), a show-cause notice was issued to 1st petitioner on 12.03.2014.

3. The 1st petitioner, who is the son of the original assignee, gave explanation to the show-cause notice denying the allegation stating that his father had cultivated crops, but due to drought they did not cultivate the land in 2014, and stated that the Mandal Revenue Inspector – I and Surveyor colluded with the villagers and got the show-cause notice issued.

4. By order dt.20.06.2014, in Proceedings No.B/60/2014, the 3rd respondent directed resumption of the land from petitioners.

5. A reading of the above order shows that except the report dt.17.02.2014 of the Mandal Revenue Inspector – I, Sircilla, no other Revenue Record is referred to, to come to the conclusion that petitioners' father did not cultivate the land between 06.06.1980 and 1983.

6. It is also contended by 1st petitioner that the said inspection was made without notice to him and that even the copy of the said report was not furnished to him.

7. These facts are not disputed by the respondents in the counter-affidavit.

8. It is inexplicable how the Mandal Revenue Inspector – I in 2014, merely on seeing the land, would come to the conclusion that the land was not cultivated between 06.06.1980 and 06.06.1983. It is not as if the said officer is conferred with any divine powers to imagine what happened thirty-four years back and come to the conclusion that the land was not cultivated within three (03) years from the date of assignment on 06.06.1980.

9. More importantly, there are no reasons in the order passed by the 3rd respondent as to why the explanation of the 1st petitioner cannot be taken into consideration for dropping further proceedings.

10. Thus, the order dt.20.06.2014 of the 3rd respondent cannot be sustained.

11. No doubt, the 1st petitioner filed a Revision against the said order under Section 4-B of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 against the order dt.20.06.2014 of the 3rd respondent. The provisions of the said Act are admittedly not applicable to the present case, because there is no alienation of the land assigned to 1st petitioner's father by anybody. As such, the very Revision Petition was not maintainable and ought to have been rejected on the said ground by the 2nd respondent. However, the 2nd respondent assumed jurisdiction under the said statute and confirmed the order passed by the 3rd respondent on 20.06.2014 by the impugned order dt.15.12.2015.

12. It is a clear case of non-application of mind by the 2nd respondent as to whether the provisions of the said Act apply and whether he can invoke them at all.

13. In the order passed by the 2nd respondent, there is a reference to pahani extracts from 1979 onwards, but none of those pahanies have been filed along with the counter-affidavit. That apart, when assignment is made of the land admittedly to the 1st petitioner's father, possession of the land would have been delivered to him by the Tahsildar / Mandal Revenue Officer himself. At least, in the year in which the assignment was made the name of 1st petitioner's father should have been reflected in the Revenue Record. The fact that it did not do so, shows the gross inaction on the part of the Revenue Officials at that point of time.

14. The order passed by the 2nd respondent states that from 2004-05 the name of 1st petitioner's father is reflected in the Revenue Record as the pattadar and occupant. Obviously, at that point of time, the Revenue Authorities had woken up and mutated his name. In any event, the very action of respondents in initiating proceedings to resume the land thirty-four years after the land was assigned on the pretext that it was not cultivated within three years from the date of assignment in 1980 on the basis of an inspection in 2014 of Mandal Revenue Inspector – I, is perverse and is a travesty of justice.

15. Therefore, the order dt.20.06.2014 passed by the 3rd respondent, as confirmed by the order dt.15.12.2015 of the 2nd respondent, is set aside; and the respondents are directed to restore the possession of the subject land to the 1st petitioner, and also pay costs of Rs.3,000/- to the 1st petitioner.

16. Accordingly, the Writ Petition is allowed. Consequently, WVMP.No.1215 of 2017 in WPMP.No.13855 of 2016 in WP.No.10990 of 2016 is dismissed.

17. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 25.01.2018
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