

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION NO.26726 OF 2007

ORDER:

This writ petition is filed challenging the order of the second respondent in Rc.B.2054/2007 dated 30.11.2007, whereunder the second respondent cancelled the assignments made in favour of the assignees in different survey numbers of P.T.Palem Village, Machilipatnam Mandal, Krishna District, and resumed the said lands to the Government.

2. It is the case of the petitioners that they are the legal heirs of the assignees of the lands in Sy.Nos.12, 131, 136, 137, 138, 139, 469, 470, 473, 474, 476, 477, 478, 479, 480 and 481 of Pallithummalapalem Village, Machilipatnam Mandal, Krishna District. The concerned Tahsildar has granted D-Form Pattas in favour of the assignees. The petitioners, being the legal heirs of the assignees, have been using the said lands for aqua culture and since last 2 years, the lands have been kept vacant and no cultivation was going on due to heavy loss. While so, the second respondent issued Form-I notices to the petitioners in SR.No.3/2007 stating that they have transferred their lands to Balaji Aqua and Agro Pvt. Limited and asked them to submit their explanation as to why their assignments cannot be cancelled. The notices were served only on some of the petitioners and they submitted a representation dated 30.11.2007. Without considering the said representation and without conducting any enquiry, the second respondent passed the impugned order dated 30.11.2007

cancelling the assignments and directed the Additional Revenue Inspector, Machilipatnam, to take possession of the said lands.

3. Sri K.Durga Prasad, learned counsel for the petitioners, would contend that the petitioners are the legal heirs of the assignees and they did not violate any of the conditions of the assignment. Though the petitioners submitted a representation dated 30.11.2007 bringing all the facts to the notice of the second respondent, the second respondent did not consider the same and issued the impugned order without conducting any enquiry. He would further contend that the Form-1 notices were not served on most of the petitioners and they did not have the opportunity of personal hearing. He therefore contends that the action of the second respondent is illegal, arbitrary and violative of principles of natural justice and hence the impugned order is liable to be set aside.

4. Ms.Vasantha, the learned Assistant Government Pleader for Revenue (A.P) vehemently argued that the petitioners are not the legal representatives of the original assignees and opposed to the contentions of the petitioners and prayed to dismiss the writ petition.

5. A perusal of the impugned order dated 30.11.2007 issued by the second respondent, it is clear that it has been passed without conducting any enquiry. The second respondent, before passing the impugned order, did not consider the representation of the petitioners and passed the impugned order in pre-determined

manner. The order passed by the second respondent is unilateral in nature. No evidence has been placed before this Court to show that the subject lands have been transferred in favour of the transferees as indicated in column No.5 of the schedule in Form-I notices issued by the second respondent. The argument of the learned Assistant Government Pleader that a notice was served upon the petitioners by fixing it to a stick in the agricultural lands cannot be appreciated as the same is not the proper form of serving notice upon the petitioners. Further, the action of the second respondent in coming to the conclusion that some of the petitioners are not the legal heirs of the original assignees without assigning any reasons, is not proper. In **Ravuri Tulisamma v. The Mandal Revenue Officer, Nandigama Mandal, Nandigama, Krishna District¹**, this Court has categorically held that taking possession of the lands will not be of any importance, if the impugned orders are passed without jurisdiction, without any authority and without following the principles of natural justice. Thus, the impugned order passed by the second respondent is liable to be set aside.

6. The writ petition is accordingly allowed, setting aside the order of the second respondent in Rc.B.2054/2007 dated 30.11.2007. No costs. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 03-08-2018
TJMR

¹ 1991 (I) An. W. R. 533