

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.8281 of 2017

ORDER:

Order, dated 20.05.2016 passed by the second respondent – District Collector, Chittoor, in the revision filed by respondents 5 to 7, staying the order, dated 03.08.2014 and remanding the matter to the third respondent - Sub-Collector, Madanapalle, for deciding in accordance with law, is challenged in this Writ Petition.

It is the case of the petitioner that the second respondent while remanding the matter to the third respondent for proper appreciation of the material on record, stayed the order, dated 03.08.2014 passed by the third respondent which is totally illegal.

Heard learned counsel for the petitioner and Sri Sharad Sanghi, learned counsel for respondents 5 to 7 and learned Government Pleader for Revenue appearing for respondent Nos.1 to 4.

A perusal of the impugned order discloses at the outset totally the non-application of mind on the part of the second respondent, who is officiating as a District Collector. While the impugned order is of five pages, the same is nothing but extract of the pleadings of the petitioner as well as respondents 5 to 7

and in the last paragraph, following conclusion has been recorded:

“Having gone through the arguments made and the documents submitted, I stayed the lower Court order, remanded to the Sub-Collector, Madanapalle to see the evidence properly and decide within eight (8) weeks from the date of receipt of this order.”

The impugned order was passed by the second respondent in the revision filed by respondents 5 to 7 against the order, dated 03.08.2014 of the third respondent dismissing the appeal filed by respondents 5 to 7 for cancellation of pattadar pass books and title deeds issued by the fourth respondent – Tahsildar, V. Kota Mandal, to the petitioner with respect to the land to an extent of Ac.0.25 cents in Survey No.126/4 situated at Nernipalli Village, V. Kota Mandal, Chittoor District.

It is to be noted that the petitioner as well as respondents 5 to 7 is claiming rights over the subject land through their father, namely, S. Abdul Razak. The fourth respondent granted mutation in favour of the petitioner with respect to the subject land. The appeal filed by respondents 5 to 7 came to be dismissed vide order, dated 03.08.2014 passed by the third respondent. Obviously, exercise of the power both by the third and fourth respondents is traceable to Section 5 of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short ‘the

Act'). As against the order of the third respondent, under Section 9 of the Act, revision lies to the second respondent. The revisional authority is expected to deal with the contentions of the respective parties and pass a reasoned order. Even if in a given case, remand is permissible on account of the third respondent not considering any of the factual issues, there is a duty cast upon the second respondent to record reasons as to why the matter is required to be remanded and what are the lacunae in the order under revision i.e., the order passed by the third respondent. The second respondent had simply chosen to remand the matter to the third respondent. It is very unfortunate that the Officer of the rank of District Collector passing such orders without application of mind.

In those circumstances, the Writ Petition is allowed, the impugned order is set aside and the second respondent is directed to consider the revision filed by respondents 5 to 7 afresh and pass appropriate orders thereon in accordance with law, after giving due opportunity to both the parties.

Miscellaneous Petitions, if any pending shall stand disposed of. There shall be no order as to costs.

CHALLA KODANDA RAM, J

2nd JANUARY, 2018.
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