

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.23405 of 2008

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Land Acquisition appearing for respondents.

2. Petitioner has assailed order in proceedings No.ROC/B/332/07 dt.09-09-2008 passed by 4th respondent.

3. Petitioner contends that she is landless poor person belonging to economically backward group and in recognition of the same, 1st respondent had assigned land admeasuring Ac.0.54 cts; that 4th respondent also issued pattedar passbook and title deed in respect of the subject land; the petitioner was in possession of the same; the village where the petitioner was given the land was declared as Special Economic Zone for the purpose of establishing industrial park; and this land of the petitioner was acquired for the said purpose and not even ex-gratia has been paid to the petitioner.

4. Petitioner contends that suddenly the impugned order was received by the petitioner canceling the patta granted to her. Petitioner contends that no prior notice has been served on the petitioner before passing the impugned order and the impugned order also does not state why the assignment made in favour of the petitioner was cancelled.

5. Counter affidavit has been filed by 4th respondent on behalf of the respondents stating that before passing the impugned order, a show cause notice in proceedings in Roc

No.B/332/07 dt.04-07-2008 was allegedly issued to one Dakshepalle Govindaiah in respect of the same land; that the said notice was returned by the postal department stating that he was not residing in the village; that the petitioner also claimed to be the wife of one late Chinni Polaiah and had filed a representation stating that the above land was granted to her husband and requested compensation; that the petitioner's name had been written without valid attestation by the competent authority in the 10 (1) account; show cause notice was also issued to the petitioner why the subject land should not be resumed; that the same notice was returned with an endorsement that she is not residing in the village; and thereafter, the impugned order has been passed.

6. Learned counsel for the petitioner contends that the petitioner had nothing to do with late Chinni Polaiah and she is not related to him. In fact her husband's name is Subbaragavulu and without serving any notice on her prior to resuming the land, the impugned order has been passed.

7. Learned counsel for the petitioner has drawn the attention of this Court to the impugned order which mentions four alternative mode of service of notice and pointed out that 4th respondent did not even bother to strike off the inapplicable ones and contended that this indicates total non-application of mind by 4th respondent.

8. I find considerable force in this submission. Since even according to the respondents, no notice before canceling the assignment of the petitioner was served on the petitioner. There is also violation of principles of natural justice.

9. Therefore, the impugned order dt.09-09-2008, canceling the assignment of the land to the petitioner and resuming it, is quashed.

10. If the respondents intend to take any steps to resume the land, it is open to them to follow due process of law by issuing show cause notice to the petitioner inviting her explanation, consider the explanation in accordance with law and they shall then pass a reasoned order and communicate the same to the petitioner.

11. Also in view of the decision of the Larger Bench reported in **LAO-cum-Revenue Divisional Officer, Chevella Division and Ors.**

Vs. Mekala Pandu and Others^[1], wherein it has been held that if there is any assigned land is acquired, the assignee is entitled to market value compensation, the respondents are directed to initiate proceedings under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and pay compensation to the petitioner within a period of four months from the date of receipt of a copy of this order, if no steps to cancel her assignment are taken afresh by the respondents. No costs.

12. The Writ Petition is allowed as above. No costs.

13. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 22-06-2016

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[\[1\]](#) 2004 (2) ALT 546