

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION No. 629 OF 2016

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner challenging proceedings No. BCW2/634/2010 of respondent No. 2 dated 13-12-2013, whereby proceedings dated 30-07-2010 of respondent No. 3 are confirmed.

2. The petitioner is an assignee of land of an extent of Ac. 4.65 cents by issuing patta subject to certain conditions imposed thereunder. Respondent No. 3 issued show-cause notice dated 20-02-2010 to the petitioner calling for his explanation alleging that he is not resident of Velampadu Village. On receipt of the same, the petitioner submitted his explanation contending that he is resident of Velampadu. By proceedings dated 30-07-2010, respondent No. 3 cancelled the patta granted in favour of the petitioner on the ground that the assignee is never in occupation of the land assigned to him. Aggrieved thereby, the petitioner preferred appeal before respondent No. 2. By proceedings dated 13-12-2013, respondent No. 2 confirmed the order of respondent No. 3 which are now impugned in this Writ Petition.

3. Learned Government Pleader for Revenue (A.P.) filed counter affidavit contending that after cancellation of patta, possession was handed over to APIIC Limited and that cancellation of patta is in consonance with the power conferred on respondent No. 3 under BSO 15 (18) read with G.O.Ms.No. 912 Revenue Department dated 08-02-1985.

4. The basis for cancellation of patta is show-cause notice dated 20-02-2010, wherein it was specifically mentioned that the petitioner is not resident of Velampadu, and called for explanation from the petitioner as to why his patta should not be cancelled. The petitioner submitted his explanation contending that he is resident of Velampadu and eligible for assignment. On considering the explanation, respondent No. 3 issued proceedings cancelling the patta granted in favour of the petitioner on the ground that the petitioner is never in occupation of the land assigned to him. When notice was issued on a specific ground, cancellation of patta on a different ground is an illegality. In the appeal, respondent No. 2 confirmed the order passed by respondent No. 3 on the ground that the petitioner is never in occupation of the land assigned to him which is not in consonance with the reason assigned in the show-cause notice.

5. Learned Government Pleader has submitted that the land is in possession of APIIC as per proceedings dated 04-07-2015 and therefore possession cannot be restored. Learned counsel for the petitioner has however submitted that the petitioner is still in possession and enjoyment of the land.

6. For the foregoing reasons and in view of the rival contentions with regard to possession of the land, the order passed by respondent No. 3, as confirmed by respondent No. 2, is hereby set aside and both parties are directed to maintain *status quo* as on date and respondent No. 3 is directed to conduct an inquiry and pass appropriate orders in accordance

with law within three months from the date of receipt of a copy of this order after affording reasonable opportunity to the petitioner.

7. The Writ Petition is accordingly allowed. Pending miscellaneous petitions if any shall stand closed in consequence.

No costs.

M.SATYANARAYANA MURTHY, J.

18-04-2018.
JSK

