

HONOURABLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.3874 of 2018

ORDER:

1 Challenge in this Writ Petition was to the order dated 05.10.2016 passed by the Joint Collector, Nalgonda, in the appeal bearing No.F2/E3/10107 of 2013 filed under Section 24 of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955. By order dated 15.02.2018 passed in this Writ Petition, it was noted that the record produced by the learned Assistant Government Pleader for Revenue, revealed that no notice had been issued to the petitioners in relation to the subject appeal as they were not residing in the village and *status-quo* with regard to the entries in the revenue records was directed to be maintained. This interim order was extended until further orders on 15.3.2018.

2 I.A.No.1 of 2019 was filed by respondent No.11 in the Writ Petition to vacate the aforestated interim order. Heard Sri P. Sasidhar Reddy, learned counsel for the Writ Petitioners, learned Assistant Government Pleader for Revenue, State of Telangana and Sri Challa Gunaranjan, learned counsel for respondent No.11, the vacate stay petitioner in I.A.No.1 of 2019. Sri Gunaranjan would inform this Court that the 11th respondent is the sole contesting respondent as she has already purchased the interests of respondent Nos.5 to 10 and 12.

3 Perusal of the order under challenge reflects that the case was taken up for enquiry in terms of the directions given by the High Court in Writ Petition No.27980 of 1997, vide order dated 17.3.2004. By the said order the High Court set aside the order dated 22.9.1997 of the Joint

Collector, Nalgonda, and the appeal was remanded for consideration afresh by the appellate authority. It is however an admitted fact that pursuant to the aforestated remand order, the appellate authority failed to serve notices upon the petitioners herein, who were the respondents in the said appeal, as they were no longer residing in the village. However, it may be noted that though the remand order was passed as long back as in the year 2004, the appeal seems to have been taken up for hearing long thereafter. No steps seem to have been taken by the appellate authority to effect substituted service of notice upon the unofficial respondents in the appeal. In effect, the order under challenge was passed by the Joint Collector, Nalgonda, behind the back of the petitioners, who were the unofficial respondents therein. It is, therefore, in clear violation of the rule of *audi alteram partem*. That was the reason why the interim order was passed on 15.02.2018 directing *status quo* to be maintained with regard to the entries in the revenue records.

4 In the light of the aforestated facts, this Court deems it unnecessary to go into the merits of the matter as the Joint Collector, Nalgonda, did not undertake a comprehensive adjudication of the appeal after hearing both sides. It would be apposite at this stage that the parties go before the appellate authority for a proper adjudication before the issue is sought to be raised before this Court.

5 The Writ Petition is accordingly allowed on this short ground setting aside the impugned order dated 05.10.2018 passed by the Joint Collector, Nalgonda, in the appeal bearing No.F2/E3/10107 of 2013. It shall be open to both parties to raise all issues before the appellate authority. As the writ petitioners, the respondents in the said appeal, are not even

residing in the village and it would be an unnecessary waste of time to expect the appellate authority to once again effect service of notice upon them, there shall be a direction to the Joint Collector, Nalgonda, to take up the appeal on 01.07.2019. All the contesting parties in the said appeal, viz., the writ petitioners herein and the 11th respondent, shall enter appearance in the appeal before the Joint Collector, Nalgonda, on the said date and participate in the appeal proceedings thereafter, be it in person or through learned counsel. The Joint Collector, Nalgonda, shall dispose of the said appeal after giving due opportunity of hearing to all the contesting parties expeditiously and in any event, not later than three months thereafter.

6 The interim order with regard to *status-quo* being maintained, in so far as entries in the revenue records are concerned, shall continue to hold the field till the disposal of the appeal afresh by the Joint Collector, Nalgonda, in terms of this final order.

7 Miscellaneous Petitions pending in this Writ Petition shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

Date: 10th June, 2019.
Kvsn