THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.NO.4379 OF 2020

O R D E R

The case of the petitioners is that the subject land was assigned to their father in the year 1970, and ever since, he has been in possession and enjoyment by cultivating the land, and after his demise on 25.05.1991, they are in possession, and subsequently, made application for mutation of their names in the revenuer records. The 4th respondent – Tahsildar, vide Memo in Lr.No.B/1893/2019 dated 24.07.2019, rejected their claim for mutation and for issuance of new pattadar pass books, on the ground that the Revenue Divisional Officer, Chevella Division vide proceedings No.D/3113/2014 dated 28.04.2016, cancelled the assignment under Section 166 B of the Andhra Pradesh (Telangana Area) Land Revenue Act 1317-Fasli on the ground that assignment was irregular and that the original assignee ie., the father of the petitioners, violated the conditions of assignment. Aggrieved by the memo dated 24.07.2019, the petitioners have filed the present writ petition.

Learned counsel for the petitioners' submits that before rejecting the claim of the petitioners for mutation, 4th respondent has not issued any notice and the same amounts to violation of principles of natural justice. He further submits that for rejecting the claim of the petitioners, 4th respondent relied on the cancellation proceedings passed by the Revenue Divisional Officer, Chevella Division dated 28.04.2016, but before canceling the assignment on the ground of alleged irregular assignment and also violation of conditions of assignment by the father of the petitioners, no notice has been issued to them and the same also amounts to violation of principles of natural justice. He further submits that for canceling the assignment under Section 166-B of the Act, jurisdiction is vested with Collector or Settlement Officer, and under the said provision, the Revenue Divisional Officer has no jurisdiction to cancel the assignment. Therefore, he seeks to set aside the impugned memo and to direct the 4th respondent to consider the case of the petitioners for mutation of their names in the revenue records and for issuance of new pattadar pass books and title deeds.

On the other hand, learned Assistant Government Pleader for Revenue submits the Revenue Divisional Officer vide proceedings dated 28.04.2016, has cancelled the assignment made in favour of the father of the petitioners and the petitioners have not challenged the same. In the light of the said proceedings, 4th respondent cannot consider the claim of the petitioners.

In this case, the specific case of the petitioners is that before canceling the assignment made in favour of the father of the petitioners, no notice has been issued to them and the cancellation proceedings of the Revenue Divisional Officer dated 28.04.2016, have also not been served on them, and their further case is that under Section 166-B of the Act, the Revenue Divisional Officer has no jurisdiction to cancel the assignment and the jurisdiction is vested with the District Collector or the Settlement Officer.

It is to be further seen that under Section 5(1) of the Telangana Rights in Land and Pattadar Pass Books Act, 1971, before rejecting the application of the petitioners, the 4th respondent is required to issue notice. The case of the petitioners is that no notice has been issued to them under Section 5(1) of the said Act, before passing the impugned memo of rejection, and the impugned memo also does not refer to issuance of any notice and opportunity to the petitioners. In view of the same, the impugned order is liable to be set aside on the ground of violation of principles of natural justice.

Accordingly, the impugned memo is set aside and the matter is remitted back to the 4th respondent to reconsider the issue by taking the factors into consideration and pass orders afresh, after issuing notice and opportunity of hearing to the petitioners. It is open for the petitioners to challenge the proceedings dated 28.04.2016 issued by Revenue Divisional Officer.

The writ petition is accordingly allowed to the extent indicated above.

Interlocutory applications pending, if any, shall stand closed. No order as to costs.

A.RAJASHEKER REDDY,J

DATE: 28—02—2020

AVS