

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.NO.29159 OF 2019

O R D E R

Vide the impugned order in ROR Revision Petition No.24 of 2012 dated 27.06.2019, the 5th respondent – Joint Collector, Bhadradi Kothagudem District, dismissed the revision filed by the writ petitioner, and confirmed the issuance of pattadar pass books and title deeds on the names of unofficial respondents herein, and thereby upheld the order of the Revenue Divisional Officer, Paloncha in ROR Appeal No.B/447/2011 dated 23.06.2012. Aggrieved by the same, the present writ petition is filed.

Learned counsel for the petitioner mainly submits that before the 5th respondent – Joint Collector, the matter was listed on 01.03.2019, and on the said date, the writ petitioner was present and as her counsel was not available, she sought for adjournment, but without considering the said request, the matter was reserved for orders. He submits that petitioner filed application on 08.03.2019 for reopening of the matter, but the 5th respondent, without considering the said request of the petitioner, passed the impugned order after three months on 27.06.2019, dismissing the revision. Learned counsel further submits that on the earlier occasion, written arguments were filed on behalf of the writ petitioner, but without considering the same, the impugned order has been passed. Therefore, he seeks to set aside the impugned order.

On the other hand learned counsel appearing for unofficial respondents 6 to 9 submits that the unofficial respondents have also filed written arguments. He submits that though the 5th respondent has not referred to the written arguments of both the parties in the impugned

order, has passed the said order based on the material evidence available on record and on merits of the case, and hence, no exception can be taken. He submits that the 5th respondent, considering the entire material available on record, passed a detailed order and the same may not be interfered with.

Learned Assistant Government Pleader for Revenue, on instructions, fairly concedes that the written arguments filed by the parties have not been referred to the impugned order.

Impugned order starts with the words stating that the matter came up before the 5th respondent for hearing on 01.03.2019 in the presence of Sri M.A.Mazid, Advocate for the revision petitioner and Sri R.Venkata Ratnam, Advocate for the respondents. The case of the writ petitioner is that on the said date, her counsel was not available and therefore, she sought for adjournment, but without considering the said request, the matter was reserved for orders. The petitioner filed attested copy of the docket proceedings in the revision. On 01.03.2019 the 5th respondent noted the docket proceedings as under:

“Both parties already filed written arguments. Reserved for orders. Appellant + respondent attended.”

The above docket proceedings, does not show that the advocates for both the parties are present and made their oral arguments. As noted above, the case of the writ petitioner is that her counsel was not available and she sought for adjournment. The above docket proceedings supports her case that her advocate was not available on the said date, since the presence of the advocate is not noted, and only the presence of the parties is noted in the docket proceedings. But in the impugned order, the 5th respondent mentioned that the matter came up for hearing

on 01.03.2019 in the presence of both the advocates, which is quite contrary to the said docket proceedings.

Further, as per the docket proceedings dated 01.03.2019 noted above, both the parties filed written arguments. Perusal of the impugned order goes to show that the 5th respondent has not even referred to written arguments, let alone proper consideration.

The above circumstances goes to show that the 5th respondent in violation of *audi alterim partem*, which is the basic concept of principle of natural justice, passed the impugned order, without providing proper opportunity to the writ petitioner, and also without considering the written arguments filed by the parties.

Therefore, without going into other merits of the case, and only on the ground of violation of principles of natural justice, the impugned order is set aside, and the matter is remitted back to the 5th respondent to reconsider the revision, and after affording opportunity of hearing to both the parties, shall pass orders afresh in accordance with law.

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: 03—02—2020

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