

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTIETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

And

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No.34210 of 1997

Between:

S.K.Silar S/o. Mirza Saheb
Sullurpeta-524 121 Nellore Dist.

..... PETITIONER

AND

- 1 The Joint Collector Nellore,
Nellore District.
- 2 The Mandal Revenue Officer Sullurpet Mandal
Sullurpeta Nellore District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly one in the nature of writ of Certiorari calling for records and quash the impugned proceedings Rc.B2.25235 of 91 dt.

18/12/94 of the first respondent herein.

Counsel for the Petitioner: MRS.P. BEENA

Counsel for the Respondent No.: GP FOR REVENUE

The Court made the following :

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IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTIETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

And

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 6659 of 1998

Between:

S.K. Silar sonof Mirza Saheb.Muslim
Sullurpeta, Nellore District.

..... PETITIONER

AND

- 1 The Joint Collector, Nellore
Nellore District.
- 2 The Mandal Revenue Officer
Sullurpeta Mandal , Sullurpeta Nellore Dist
- 3 The Secretary to Govt., Revenue Department,
Govt. of A.P. Secretariat Buildings, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly one in the nature of writ of Certiorari calling for the records and the quash impugned proceedings in Memo. No.27453/ASN.II(III)/97-1 dt. 6/05/97 of the 3r respondent herein.

Counsel for the Petitioner: MRS.P.BEENA

Counsel for the Respondent Nos.1 to 3: GP FOR REVENUE

The Court made the following :

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COMMON ORDER:(Per Hon'ble Sri Justice B. Sudershan Reddy)

We have heard the learned counsel for the petitioner. The order dated 18-12-1994 on the file of the Joint Collector, Nellore, is impugned in these writ petitions on various grounds.

The sum and substance of the case set up by the petitioner is that the lands in question belong to Darga of Nagur Khadervali Saheb and therefore a Wakf property. The petitioner instead of getting the claim adjudicated by the proper Forum raised the dispute before the revenue authorities who after

making an appropriate enquiry found the land to be Government land and justified their action in granting lease to the third parties.

In these writ petitions, the person in whose favour the lease has been granted by the revenue authorities is not impleaded as party respondent, therefore it would not be possible to set aside the order passed by the Joint Collector in the absence of proper and necessary parties.

It is needless to observe that revenue authorities including the Joint Collector have no authority or jurisdiction in law to decide whether the property is a Wakf property or not. Therefore, the observations, if any, made by the Joint Collector that the property is not a Wakf property may not come in the way of the petitioner availing the remedies that may be available to him in law, in which event, the matter shall be considered on its own merits. The finding of the Joint Collector that the land in question is a Government land shall remain in operation until a valid declaration is obtained by the petitioner in accordance with law.

Therefore, we find no legal impediment to grant leave to the petitioner to avail such remedies as may be available to him in law.

This is all the prayer made by the learned counsel for the petitioner during the course of hearing of these writ petitions. Leave is accordingly granted.

With the observations as above, the Writ Petitions shall stand dismissed without any order as to costs.

B. SUDERSHAN REDDY, J

Date:30-07-2004

K.C. BHANU, J

NOTE:

After signing of this common order by BRSR,J & KCB,J and after dispatching the same, BRSR,J directs the Office to place on copy each of this common order in the respective original bundle of each application (which are disposed of by this common order) for ready reference and record purpose.

(B/O)

PVAssistant Registrar.

Section Officer.

To

- 1 The Joint Collector Nellore,
Nellore District.
- 2 The Mandal Revenue Officer Sullurpet Mandal
Sullurpeta Nellore District.
3. Two C.Cs. to G.P. for Revenue, High Court of A.P.,
Hyderabad(OUT).
5. Two C.Ds.