

HONOURABLE SMT. JUSTICE V.SUJATHA

WRIT PETITION No.18353 of 2015

ORDER

This petition is filed under Article 226 of the Constitution of India, seeking the following relief:-

“....to issue Writ of Mandamus or any other appropriate writ or direction declaring the proceedings of the 2nd respondent passed in R.Dis.No.9535/2008/E4 dated 16.8.2014 as illegal, arbitrary and contrary to the order passed by this Honble Court in W.P.No. 24955/2008 dated 11.7. 2014...”

When the matter came up for admission, this Court passed an Interim Order on 23.06.2015, which is as follows:

‘As per the directions issued by this Court in W.P.No.24955/2018 dated 11.07.2014, the petitioner was given a notice and his explanation was considered and the impugned order is passed cancelling the assignment’.

Learned counsel for the petitioner, however, states that his explanation dated 04.08.2014 has not been considered as the body of the impugned order shows that no explanation has been received.

Learned Government Pleader for Revenue takes notice and seeks time to verify the records and get instructions.

The Order of the Joint Collector, Anantapuram dated 16.08.2014, shall remain stayed for a period of four weeks.

List after two(02) weeks.’

Heard Sri.S.V.Ramana, learned counsel for the petitioner and learned Assistant Government Pleader for Revenue.

On perusal of the impugned proceedings vide R.Dis.No.9535/2008/E4 dated 16.08.2014, though the reference No.11 clearly shows that reply of petitioner dated 04.08.2014. But, however in the order it is stated as follows:

'In the reference 5th cited Sri.R.Murali Mohan/petitioner has given representation to the Collector, requesting 15 days time for filing detailed explanation to the show-cause notice issued to him. But, his written explanation has not been received.'

But, thereafter, the 2nd respondent in the same proceedings, stated as follows:

'In the reference 11th cited, Sri.R.Murali Mohan has given his explanation that the then Tahsildar had assigned the land in survey No.4-2, for an extent of Ac.4.80 cents of Rachanapalli Village in his favour, as he was a landless poor. Further he has stated that the Revenue Officials and himself were not even aware that the land was classified as Vaka Poramboke in the revenue records and that as there is neither Vanka near the lands from the year, 1996 nor the traces of Vanka are visible and that the land has been already converted into non-agriculture purpose and hence, there is no illegality in assigning the land in favour of him'

From the above, it clearly shows that the impugned order was passed without application of mind and even this Court has passed an Interim Order solely on the ground that the body of the impugned Order states that no explanation has been received, in spite of the explanation submitted by the petitioner.

In view of the same, this Court feels it appropriate to set aside the impugned proceedings issued by the 2nd respondent.

Accordingly, the Writ Petition is allowed by setting aside the impugned proceedings passed by the 2nd respondent vide R.Dis.No.9535/2008/E4 dated 16.08.2014. However, the matter is remanded to the Joint Collector, Ananthapuramu, for fresh enquiry, in accordance with law, till then, the respondents are directed not to interfere with the possession of the petitioner over the subject land without following due process of law. There shall be no order as to costs.

As a sequel thereto, miscellaneous applications, pending, if any, shall also stand closed.

JUSTICE V.SUJATHA

Date : 30.11.2022

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