

(2011) 11 AP CK 0067

In the Andhra Pradesh High Court

Case No : Writ Petition No. 16984 of 2002

A. Shankaraiah and others

APPELLANT

Vs

District Collector, Medak District and others

RESPONDENT

Date of Decision : 17-11-2011

Acts Referred:

Citation : (2012) 4 ALD 335

Hon'ble Judges : G. Rohini, J

Bench : Single Bench

Advocate : Ali Farooque, for the Appellant; A.K. Narastmha Rao, Counsel for the Respondent No. 4, for the Respondent

Judgement

Ms. G. Rohini, J.—The petitioners herein were assigned Ac. 1.00 each in Survey No. 49 of Pothreddypally Village, Sangareddy Mandal, Medak District in the year 1978. It is stated that they have been in possession and enjoyment of the respective lands assigned to them from the date of assignment. While so, the Mandal Revenue Officer Sangareddy-2nd respondent herein issued notices dated 10.3.1999 alleging that the petitioners failed to cultivate the lands and calling upon them to show-cause as to why the assignments should not be cancelled. It is stated that though the petitioners submitted explanations denying the allegations made in the show-cause notice, no further orders were passed. However, long thereafter the petitioners were served with the proceedings of the 2nd respondent dated 3.4.2001 calling upon to handover the land in their possession on the basis of the order dated 16.3.2001 said to have been passed by the 1st respondent. Aggrieved by the said action of the respondents, the present writ petition is filed. This Court while directing rule nisi, by order dated 5.9.2002, granted interim suspension of the 2nd respondent's order dated 3.4.2001.

2. On behalf of the respondents 1 and 2, the Tahsildar, Sangareddy Mandal, Medak District filed a counter-affidavit stating that since the assignees did not bring the assigned land under cultivation, the show-cause notices dated

10.3.1999 were issued. Since their explanations were not convincing, the resumption orders were passed by the 2nd respondent on 3.4.1999 and pursuant thereto, the possession of the land was also taken over under panchanama dated 8.4.1999. It is further stated that the land under resumption was proposed for alienation in favour of the A.P. Housing Board and A.P. Tourism Department and accordingly, the District Collector by order dated 14.3.2001 directed to handover the advance possession of Acs. 2.00 cents of land to the A.P. Tourism Department and Acs. 4.00 cents of land to the A.P. Housing Board. Accordingly, the Mandal Revenue Inspector handedover the respective lands to the above departments. Thus, it is contended that the assigned lands were resumed and were handedover to the Government Departments following due process of law.

3. The A.P. Tourism Development Corporation Limited, which got itself impleaded as the 4th respondent, filed a counter-affidavit stating that they were put in possession.

4. However, the learned Counsel for the writ petitioners disputed the stand taken by the respondents that the possession was taken from the petitioners on 8.4.1999. It is also contended that the resumption orders were never served on the petitioners.

5. Having regard to the specific plea of the petitioners that their possession has never been disturbed, this Court while disposing of WVMP No. 3810 of 2003 filed by the 4th respondent modified the interim order dated 5.9.2002 as under:

The writ petitioners were granted assignment to an extent of one acre each in Sy. No. 49 of Pothreddypally Village, Sangareddy Mandal, in Medak District. When there was interference with the possession of the petitioners pursuant to memo, dated 3.4.2001 in Lr. No. D/1176/99, issued by the Mandal Revenue Officer, Sangareddy, this writ petition has been filed and this Court by order, dated 5.9.2002, suspended the said memo.

The A.P. Tourism Development Corporation, which is impleaded as party-4th respondent, has filed this vacate petition stating that an extent of two acres of Government land in said survey number was allotted to them and the same was handedover under a cover of panchanama on 31.10.2001.

It is not in dispute so far the land of the petitioners is concerned; they were assigned one acre each, and that there are no orders of cancellation to interfere with the possession of extent of land which is allotted to them. The extent of land in Sy. No. 49 is more than that what is assigned to the petitioners and it is always open for the Government to allot the remaining land in the same survey number, to others.

In that view of the matter, I modify the order dated 5.9.2002, confining the impugned order of suspension to the extent of the land assigned to the petitioners, possession of which is given to them.

The W.V.M.P. and W.P.M.P. are disposed of accordingly.

6. Though it is pleaded in the counter-affidavit filed on behalf of the respondents that the 2nd respondent by order dated 3.4.1999 resumed the land in question, nothing could be placed before this Court to show that the said order was actually served on the petitioners. Even the impugned order dated 3.4.2001 did not refer to the said order of resumption dated 3.4.1999. The law is well settled that communication of administrative order to the person affected by it is essential. In the absence of communication such order does not become effective. In the facts and circumstances noticed above, I find force in the contention of the learned Counsel for the petitioners that the order of resumption dated 3.4.1999 cannot be acted upon. Therefore the consequential order dated 3.4.2001 is equally bad and is liable to be set aside. Accordingly, both the orders dated 3.4.1999 and 3.4.2001 are hereby set aside and the writ petition is disposed of with a direction to the respondents 1 and 2 to pass appropriate orders afresh after giving an opportunity of hearing to the petitioners. Till such orders are passed, status quo obtaining as on today with regard to the possession of the land in question shall be maintained. No costs.