
(2014) 12 AP CK 0185
In the Andhra Pradesh High Court
Case No : Writ Petition No.701 of 2004

Namala Kotaiah

APPELLANT

Vs

Joint Collector & Additional District Magistrate, Guntur

RESPONDENT

Date of Decision : 15-12-2014

Acts Referred:

Citation : (2017) 1 AndhLD 518

Hon'ble Judges : Mr. Challa Kodanda Ram, J.

Bench : Single Bench

Advocate : C.V. Bhaskar Reddy, Advocate, for the Petitioner; Assistant Government Pleader for Revenue, for the Respondent No. 1 and 3; Ch. Janardhan Reddy, Advocate, for the Respondent No. 4

Final Decision : Disposed Off

Judgement

Mr. Challa Kodanda Ram, J. - This writ petition is filed questioning the order dated 16.12.2003 passed by the first respondent cancelling the patta granted in favour of the petitioner on 27.10.1996 for an extent of Ac.1.30 cents of land in Sy.Nos.198/2A/8 and 198/2A/10 situated in Anchulavaripalem Village, Rajupalem Mandal, Guntur District.

2. The brief facts of the case are that at the instance of the 4th respondent-Ex-Sarpanch, who was inimical to the petitioner, the patta granted in favour of the petitioner was cancelled on irrelevant considerations. It is stated that the 4th respondent having failed in his efforts to get the patta granted in favour of the petitioner cancelled by the 2nd respondent, approached by filing the revision before the first respondent who passed the impugned order. The reasons recorded in brief by the 3rd respondent for cancellation of the patta granted in favour of the petitioner are that the land is required for the extension of burial ground and other public purposes and to that effect Gram Panchayat had passed a resolution in 1995 itself. Further, the petitioner-assignee has been managing the affairs of more than Ac.5.00 cents of land since 1995. He himself owns Ac.1.20 cents, in his father's name Ac.2.00 cents and in his mother-in-law's

name Ac.2.31 cents of land. Cumulatively taken, petitioner owns more than Ac.5.00 cents of land, as such, he is not a landless poor person and ineligible for grant of patta. A further direction was given to evict the petitioner from the land.

3. Sri C.V. Bhaskar Reddy, learned counsel appearing for the petitioner submits that neither before the 2nd respondent-R.D.O nor before the 1st respondent-Joint Collector, the petitioner was made a party respondent and no enquiry as such was conducted and no opportunity was given. Further, the 4th respondent suppressed the fact of his suffering a judgment and decree dated 22.01.2001 of permanent injunction granted by the Principal Munisif Magistrate in O.S. No.403 of 1996 not to interfere with the peaceful possession and enjoyment of the property. The 4th respondent having failed in his attempt had approached the authorities and the impugned orders came to be passed without notice and without following due process of law.

4. On the other hand, the learned Government Pleader supports the impugned order by reiterating the contents of the order dated 16.12.2003.

5. Sri Ch. Janaradhana Reddy, learned counsel for the 4th respondent submits that there is no infirmity in the impugned order and the 1st respondent had come to the conclusion that the land was granted in favour of the petitioner ignoring the requisition of the Gram Panchayat for the land for the purpose of burial ground. The 1st respondent has considered these aspects and passed the impugned order which does not require any interference.

6. Heard the learned counsel for both the parties and perused the material placed on record.

7. It is a clear case where politics and animosities among the villagers are apparent. It is not denied by the learned counsel for the 4th respondent or the learned Government Pleader that the orders came to be passed without notice to the petitioner. Inasmuch as the 4th respondent did not even choose to make the petitioner as party respondent either before the 2nd respondent-Revenue Divisional Officer or before the Joint Collector, the 2nd respondent rightly dismissed the appeal on merits, and the same cannot be interfered with by the 1st respondent except on the ground of lack of or error of jurisdiction and for exceptional reasons. The first respondent did not even consider the fact that the petitioner was not made a party respondent. As a matter of fact, on that simple ground the first respondent ought to have dismissed the revision filed by the petitioner against the order of the 2nd respondent. Further, it may be noted that the 4th respondent filed appeal before the respondents 1 and 2 in his individual capacity though purporting to be exposing the cause of the public at large taking the ground of the resolution of the Gram Panchayat. There is nothing on record as to whether any such resolution was placed before the 1st respondent or not. At any rate, the future requirements of the Gram Panchayat cannot be a ground for cancellation of a patta which was granted earlier without there being any violations of the conditions of the grant. If at all the Gram Panchayat requires a

particular piece of land, it is always open for the Gram Panchayat to approach the respective authorities seeking allotment of suitable land to meet the public purpose. In that view of the matter, I am not inclined to accede to the request of the 4th respondent to remit back the case to the first respondent for fresh consideration on the ground that the petitioner has not been given an opportunity. In those circumstances, the writ petition is liable to be allowed.

8. Accordingly, the writ petition is allowed quashing the proceedings of the 1st respondent dated 16.12.2003 cancelling the patta granted in favour of the petitioner on 27.10.1996. There shall be no order as to costs. Miscellaneous petitions, if any, pending in the writ petition, shall also stand closed.