

HIGH COURT FOR THE STATE OF TELANGANA

WRIT PETITION No.1250 OF 2008

Between:

G.Vittal, S/o, Late G. Nago Rao,
Aged about 36 years and another

..
Vs.

Petitioners

The Additional Agent to Government and
Project Officer, I.T.D.A. Adilabad at Utnoor & 3 others.

.. Respondents

DATE OF THE ORDER PRONOUNCED: **14.03.2023**

1. Whether Reporters of Local newspapers
may be allowed to see the judgment? Yes/No

2. Whether the copies of judgment may be
marked to Law Reporters/Journals Yes/No

3. Whether his Lordship wish to
see the fair copy of the judgment? Yes/No

*** HON'BLE SRI JUSTICE J. SREENIVAS RAO**

+ WRIT PETITION No.1250 OF 2008

% DATED 14TH March, 2023

G.Vittal, S/o, Late G. Nago Rao,
Aged about 36 years and another..

... Petitioners

Vs.

The Additional Agent to Government and
Project Officer, I.T.D.A. Adilabad at Utnoor & 3 others.

... Respondents

<Gist:

>Head Note:

! Counsel for the Petitioners : Sri V. Manohar Rao, Advocate

^Counsel for Respondents : Government Pleader for Social Welfare
Sri G.Prashanth, Advocate

? CASES REFERRED:

1. 1976 (1) SCC 124

HON'BLE SRI JUSTICE J. SREENIVAS RAO**WRIT PETITION No.1250 of 2008****ORDER:**

This writ petition is filed seeking Writ of Certiorari calling for the records in Case in LTR Appeal No.A4/LTR/31/1985 on the file of respondent No.1 and quash the order in LTR Appeal No.A4/LTR/31/1985, dated 29.12.2007 confirming the orders of respondent No.2 in Case No.TW/A2/848/1984, dated 24.04.1985.

2. Heard Sri N. Praveen Reddy, learned counsel representing Sri V. Manohar Rao, learned counsel for the petitioner. Learned Government Pleader for Social Welfare appearing on behalf of respondent Nos.1 and 2, Sri G. Prashanth, learned counsel appearing on behalf of respondent No.3. In spite of the service of notice to respondent No.4 she has not chosen to enter into appearance.

3. Sri N. Praveen Reddy, learned counsel for the petitioners

contended that the petitioners are the owners of the land to an extent of Acs.7.14 guntas in Survey No.52 situated at Lingi village and the same was acquired from their father. He further submits that due to ill health of their father in the year 1982-83 he has taken assistance of respondent No.3 who is his relative, for doing agricultural activities.

4. He further submits that respondent No.2 has initiated *suomoto* proceedings while exercising the powers conferred under Andhra Pradesh Scheduled Areas Land Transfer Regulations 1959 read with amended regulation of 1970 (hereinafter called as 'Regulations' in brevity) on the alleged ground that the transfer has been taken place between petitioner's father and respondent No.3 and the same is in contravention of the Regulations and the respondent No.2 has passed the ejectment order on 24.04.1985 without giving any notice and opportunity to the petitioner's father. He further submits that as soon as they came to know about the passing of ejectment order, petitioner's father filed appeal before respondent No.1 and during the pendency of the

appeal, petitioner's father died. After receiving notices to appear before respondent No.1, the petitioners have appeared before respondent No.1 on 29.12.2007 and requested time for filing documents. But respondent No.1 dismissed the appeal and confirmed the order of respondent No.2 on 29.12.2007.

5. He also contended that respondent No.2 has not issued any notice and passed ejectment order on 24.04.1985 behind back of the petitioner's father alleging that respondent No.3 appeared in the proceedings and given a statement that the subject land has been taken on lease towards money loan from petitioner's father and the same is hit by Section 2(g) of Regulations. He further submits that respondent No.3 has never appeared before respondent No.2 and has not given any statement. The petitioners in the statutory appeal raised specific ground that the petitioner's father has not received any notice and the respondent No.2 has passed the ejectment order which is clear violation of the principles of natural justice. Respondent No.1 while dismissing the appeal has not given any reason in respect

of non service of notice to petitioner's father and simply confirmed the orders passed by respondent No.2. He also contended that provisions of Regulations are not applicable to the subject land and the transaction took place prior to the Regulations came into effect. The respondent No.2 without verifying any documents simply passed the ejectment order. In support of his contention the learned counsel relied upon the judgment reported in ***City Corner Vs. Personal Assistant to Collector and Additional District Magistrate, Nellore***¹.

6. Learned Assistant Government Pleader for Social Welfare submits that respondent No.2 issued notice which was refused by petitioner's father and the same was affixed to his house.

7. When this Court directed the learned Assistant Government Pleader to produce the proof of service of notice, learned Assistant Government Pleader placed the copy of the notice before this Court. After going through the notice it clearly reveals that a copy of the notice is affixed to the house which reads as

¹1976(1)SCC124

follows:

“ఈ ఘోరము తీసుకోనుటకు నిరాకరించుటచే ఇంటికి అతికించనైనది.”

Sd/-

XXXXXX

MRI, Thalamadugu
Dt.10.06.1985

8. The above said notice clearly reveals that on 10.06.1985 notice was affixed to the petitioner's father's house, where as the ejectment orders were passed by respondent No.2 on 24.04.1985. It clearly shows that prior to the passing of the order no notice was issued to the petitioner's father. Learned counsel for the petitioners has rightly contended that respondent No.2 without issuing any notice and without giving reasonable opportunity to the petitioner's father passed the ejectment order basing on the alleged ground that respondent No.3 has given statement. Though the respondent No.3 filed sworn affidavit before this

Court stating that he has not appeared before respondent No.2 and has not given any statement and further submits that there is no transaction between the petitioner's father and respondent No.3. These facts are disputed questions of fact. The above said disputed questions of facts are to be determined by the competent authority i.e., respondent No.2 by considering the evidence and this Court is not inclined to decide the disputed questions of fact.

9. No order adverse to a party should be passed without hearing them. The Hon'ble Apex Court in ***Udit Narain Singh Malpaharia v. Addl. Member Board of Revenue***², relied upon the judgment in ***King v. London County Council*** **[(1931) 2 KB 215, 243]** stating as follows:

“Wherever any body of persons (1) having legal authority (2) to determine questions affecting rights of subjects and (3) having the duty to act judicially (4) act in excess of their legal authority — a writ of certiorari may issue”. It will be seen from the ingredients of judicial act that there must be a duty to act judicially. A tribunal, therefore, exercising a judicial or quasi-judicial act cannot decide against the rights of a party without giving him a hearing or an opportunity to

² AIR 1963 SC 786

represent his case in the manner known to law. If the provisions of a particular statute or rules made thereunder do not provide for it, principles of natural justice demand it. Any such order made without hearing the affected parties would be void. As a writ of certiorari will be granted to remove the record of proceedings of an inferior tribunal or authority exercising judicial or quasi-judicial acts, *ex hypothesi* it follows that the High Court in exercising its jurisdiction shall also act judicially in disposing of the proceedings before it.

10. However, without going into the other aspects of the case, it is already stated supra that respondent No.2 passed ejectment order dated 24.04.1985 without issuing notice to the affected parties i.e., petitioner and the same amounts to clear violation of principles of natural justice. While respondent No.2 exercising the quasi judicial powers conferred under Regulations ought to have followed the principles of natural justice. On this ground the impugned ejectment order dated 24.04.1985 passed by respondent No.2 which was confirmed by respondent No.1 by its order dated 29.12.2007 are set aside and the matter is remitted back to respondent No.2. Respondent No.2 is directed to pass orders afresh in Case No.TW/A2/848/1984 after giving notice and opportunity to the petitioners and other parties in *lis*

including personal hearing and pass appropriate orders, in accordance with rules, within a period of four (4) months from the date of receipt of the copy of this order. Till such time both the parties are directed to maintain *Status Quo*.

11. Accordingly, the writ petition is disposed of. No costs.

As a sequel thereto, miscellaneous applications, if any, pending in this writ petition shall stand closed.

JUSTICE J SREENIVAS RAO

14th March, 2023
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HON'BLE SRI JUSTICE J. SREENIVAS RAO

WRIT PETITION No.1250 of 2008

14th March, 2023

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Note

L.R. Copy to be marked : **'Yes'**.

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PSW