

HON'BLE SRI JUSTICE J. SREENIVAS RAO

WRIT PETITION No.6048 of 2012

ORDER:

This writ petition is filed seeking the following relief:-

“to issue writ or direction preferably writ of mandamus, declaring the order issued by the respondent No.1 file No. F2/8824/2009, dated 02.02.2012 as illegal, arbitrary, contrary to record and violative of principles of natural justice and consequentially set aside the said order.”

2. Heard Sri Kowturu Pavan Kumar, learned counsel for the petitioner; learned Assistant Government Pleader for Revenue appearing on behalf respondent Nos.1 to 3 and Sri M.Venkat Ram Reddy, learned counsel for respondent No.4.

3. Learned counsel for the petitioner submits that the petitioner is the owner and possessor of the agricultural land admeasuring Ac 0.06 ½ gts., in Sy.No.9, situated at Pinnaipalem Village, Suryapet Mandal, Nalgonda District and the same was acquired through the Document dated 16.07.1999 executed by respondent No.4 relinquishing her rights in his favour. The said document was regularised by the then Mandal Revenue Officer, Suryapet, exercising the powers conferred under the provisions of Section 5A of A.P.Rights in Land and Pattadar

Pass Books Act, 1971 (for brevity "the Act") and issued 13-B certificate on 23.08.2007. Aggrieved by the said order, respondent No.4 filed appeal invoking the provisions of Section 5B of RoR Act before respondent No.2 and the appellate authority dismissed the appeal. Questioning the same, respondent No.4 filed revision petition under Section 9 of RoR Act before respondent No.1. The revisional authority without properly considering the contentions of the petitioner, erroneously allowed the revision petition and set aside the orders of the respondent Nos.2 and 3. The impugned order passed by respondent No.1 is contrary to law.

4. Per contra, learned counsel for respondent No.4 submits that respondent No.4 is the owner and possessor of land to an extent of Ac 2-00 gts in Sy.No.9 of Pinnaipalem Village, Suryapet Mandal, Nalgonda District and at the request of the petitioner and village elders, he provided a way of 10 feet through his land enabling the petitioner to utilise such way to go to his land in Sy.No.8 and with an easementary right to use the said way by the petitioner and respondent No.4 without any exclusive rights, through document dated 16.07.1999 and respondent No.4 has not relinquished the subject land in favour of the petitioner. The respondent No.3 without following the mandatory procedure prescribed under law, issued 13B certificate on 23.08.2007. He

further contended that respondent No.3 is not having authority or jurisdiction to regularize the above said document. Respondent No.1 after considering the contentions of the respective parties and also after due verification of the records, rightly passed the impugned order and there is no illegality or irregularity in the said order.

5. Learned Assistant Government Pleader reiterated the very same submissions made by the learned counsel for respondent No.4.

6. Having considered the rival submissions made by the respective parties and after perusal of the record, it reveals that petitioner is claiming the rights over the property basing upon the unregistered Document dated 16-07-1999 executed by respondent No.4 alleging that he relinquished his rights in his favour to an extent of Ac 0.06 $\frac{1}{2}$ gts in Sy.No.9 and respondent No.3 regularised the said document exercising the powers conferred under Section 5-A of the Act and issued 13-B certificate on 23.08.2007. Questioning the same, respondent No.4 filed appeal before respondent No.2 and the appellate authority dismissed the said appeal by its order dated 03.08.2009. Aggrieved by the above said orders, respondent No.4 filed statutory revision under Section 9 of the Act. That respondent No.1 after due verification of the

records and after considering the contentions of parties, allowed the revision petition by setting aside the order of respondent Nos.2 and 3 and directed the petitioner to redress his grievance before the competent Court of law.

7. It is relevant to place on record that as per the provisions of Section 5A of RoR Act, the Tahasildar is having a power to regularise the sada sale deed. In the case on hand, respondent No.3 has regularised the unregistered document Dated 16.07.1999 in favour of the petitioner. The recitals of the document do not come within the purview of sada Sale Deed.

8. It is also relevant to place on record that the Division Bench of combined High Court of Andhra Pradesh at Hyderabad in ***Konkana Ravinder Goud and others vs Bhavanarishi Co-Operative Housing Building Society, Hyderabad and others***¹ held that the agreement of sale does not convey any right, title or interest over the property and also agreement of sale cannot be considered as a valid transfer/alineation of the property within the provisions of Section 5A of the RoR Act. It further held that the intent and purport of the Act is that what was sought to be validated was only a completed contract of sale, which for want of registration, in view of the provisions of the Registration Act, 1908

¹ 2003(5) ALD 654 (DB)

had not the effect, of conveying rights, title or interest in favour of the purchaser.

9. In the case on hand, unregistered document dated 16.07.1999 does not come within the purview of Section 5(A) of Act especially when the respondent No.4 is denying relinquishing of his rights in respect of the subject property through the said document.

10. Viewed from any angle, there is no illegality, irregularity or error in the impugned order passed by respondent No.1 dated 02.02.2012 to invoke jurisdiction of this Court under Article 226 of Constitution of India, and there are no merits in the Writ Petition and the same is liable to be dismissed.

11. In the result, the Writ Petition is dismissed without costs. However, it is left open to the petitioner to take appropriate steps to ascertain his claim over the subject property by approaching a competent Civil Court, if so, he is aggrieved.

12. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE J. SREENIVAS RAO

06.06.2024

Note: L.R.Copy to be marked

b/o.

Sa