

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

W.P. No. 5413 of 2015

ORDER:

Heard Sri Harender Pershad, the learned counsel for the petitioner and learned Government Pleader for Revenue.

2. This writ petition is filed to issue a writ order or direction more particularly one in the nature of writ of certiorari calling for the records pertaining to impugned notice No C/2671/2012, Dated 31-01-2015 issued by 2nd Respondent and consequently quash the said notice and proceedings initiated there under as being arbitrary, illegal, without jurisdiction, violative of Articles 14 and 21 of The Constitution of India and as being contrary to A P Rights in Land and Pattadar Pass Books Act 1971 and the rules made there under.

3. The order of this court dated 04.03.2015 passed in W.P.M.P No. 7203 of 2015 in W.P. No. 5413 of 2015 is extracted as hereunder:

" Order:

The averments in the writ affidavit are to the effect that the petitioner was granted pattadar passbook after mutation of his name in the revenue records in the year 1997; and the respondents 4 and 5 appears to have approached the 2nd respondent by way of an appeal. Prima facie, such an appeal is not maintainable by the 2nd respondent.

In that view of the matter, pending disposal of the writ petition, there shall be interim stay of all further proceedings before the 2nd respondent.

The petitioner's counsel shall take out personal notice to respondents 4 and 5 by RPAD and file proof of service."

PERUSED THE RECORD :

4. The Impugned Notice issued by the office of Revenue Divisional Officer, Gadwal vide No.C/2671/2012, dated 31.01.2015 is as follows:

"Please take notice that the above mentioned case is posted for hearing on 07.02.2014 at 03.00 P.M. before the Revenue Divisional Officer, Gadwal. You are therefore advised to appear before the Revenue Divisional Officer, Gadwal on the said date and time to adduce evidence in support of your claim, other wise the matter will be decided basing the material available on record."

5. The representation to the office of Revenue Divisional Officer, Gadwal by Harijan Karna and Harijan Lalanna, dated 08.08.2012 i.e. respondents 4 and 5 is as follows:

"In reference to the above subject, we Harijan Karna S/o. Gokari aged 40 years, Harijan Lalanna, S/o. Gokari aged 42 years, Occ:Agriculture, R/o. Kurnool request you that our native is kondair village and when we were minors our elders purchased land in Sy.No's. 155 & 156 from its owner K. Narasing Rao, S/o. Pedda Subbaiah vide Sale Deed No.204/1980, 205/1980 registered at SRO, Alampur and paid sale consideration also. Old pattadar passbooks in our names were issued. Later due to drought our family had to migrate to Kurnool for livelihood.

Presently we returned to our village and requested the authorities to rectify the names in the revenue records over subject land and issue pattadar passbooks and title deeds and the authorities are not responding. Presently the land is in fallow condition and our financial condition is not good to cultivate the land. To obtain bank loan title deed and passbook are required, as such by conducting enquiry our names may be implemented in the ROR and Pahanis and kindly issue title deed and passbooks."

DISCUSSION & CONCLUSION :

6. A bare perusal of representation dated 08.08.2012 addressed to the 2nd Respondent herein by the Respondents No.4 & 5 (extracted above) clearly indicates that the request of the Respondents No.4 & 5 pertain's to rectification of the names in the Revenue records in respect of land in Sy.No.155 & 156 and to issue pattedar passbooks and title deeds. It is the specific case of the Respondents No.4 & 5 that they have purchased the subject land in the year 1973 and

registered sale deeds were executed in their favour in the year 1980. Section 4 of A.P. Rights & Pattedar Passbooks and Title Deeds Act, 1971 clearly indicates a period of 90 days for updation of records from the date of acquisition of the subject property by the person acquiring the said right. In the present case admittedly the sale deeds have been executed in favour of Respondents No.4 & 5 in the year 1980 itself, but however, it is only on 08.08.2012, that a request has been made by the Respondents No.4 & 5 to rectify the names in the revenue records over the said subject lands and issue pattedar passbooks and title deeds in favour of the Respondents No.4 & 5.

7. A bare perusal of few material documents filed by the petitioner (referred to below) clearly indicates that the petitioner's name in respect of the subject land was incorporated in the revenue records in the year 1997 itself. Report dated 12.12.2013 of the Office of the Revenue Divisional Officer and 06.01.2014 of the Office of the Tahsildar, Itkyl Mandal, and the report dated 27.05.2011 of the Tahsildar concerned.

I) A bare perusal of the contents of the report dated 12.12.2013 of Tahsildar, Itikyala Mandal, addressed to the Revenue Divisional Officer, Gadwal, clearly indicates that the patta in respect of the subject lands in Sy.No.155/A extent Ac.5.06 gts., 155/AA extent Ac. 5.07 gts., and Sy.No.156/A1 extent Ac.5.26 gts., stands patta in the name of the Petitioner herein.

II) The said fact is again reiterated in the enquiry report No.B/1518/2013, dated 06.01.2014 of Tahsildar, Itikyala Mandal, and further it is revealed vide the said enquiry report dated 06.01.2014 that the name of the Petitioner was implemented in the revenue records in the year 1997 itself by following due procedure.

III) A bare perusal of the contents of the report dated 27.05.2011 issued vide No.A/1051/2011 by the O/o. Tahsildar, Itikyala Mandal, Mahabubnagar District, clearly indicates that in pursuance to the enquiry conducted by the Officers concerned regarding the possession and enjoyment over the land in Sy.Nos.155/a, extent Ac.5.06 gts, Sy.No.155/aa extent

Ac.5.07 gts and S.No.156/a1, extent Ac.5.26 gts, totally to an extent of Ac.15.39 gts., it is revealed that the said patta land stands in the name of the petitioner herein and the subject lands are mutated on the petitioner's name in the revenue records in the year 1997 and since the date of implementation of the petitioner's name in the revenue records, the possession of the subject lands remained with the petitioner only i.e. in possession of Sreekanth Goud, S/o M.Ramana Goud.

8. This court opines that as per Section 10(2) of the A.P. Rights in Lands in Pattedar Passbooks Act, 1971, the provisions of Section 5 and Sections 12 to 24 of the Limitation Act, 1963 (Central Act 36 of 1963) shall apply for the purposes of extension and computation of the periods prescribed in Sections 3(3), 4(1), 5(5), 5(A) and 5(B) of the Act.

9. A bare perusal of the contents of the representation dt. 08.08.2012 of the Respondents No.4 & 5 herein addressed to the 2nd Respondent clearly indicate that Respondents No.4 & 5 returned to the village in the year 2012 and made a request for

implementation of Record of Rights and Pahanies and for issuance of Title Deed and Passbooks to the Respondents No.4 & 5 herein.

10. A bare perusal of the representation of the petitioner dt. 08.08.2012 clearly indicates that it is not in a proper format and it cannot be treated as an Appeal by the Authority concerned.

11. A bare perusal of all the reports dt. 27.05.2015, 12.12.2013 and the report dt. 06.01.2014 clearly indicate the Petitioner's name as implemented in the revenue records in the year 1997 itself by following due procedure and since the date of implementation of the said revenue records the petitioner is in possession and enjoyment over the subject land.

12. This Court opines that as per Sec.8(2) of A.P. Rights in Land and Pattedar Passbooks Act, 1971, the Respondents No.4 and 5 should approach the competent Civil Court, under Section 8(2) of the A.P. Rights in Land and Pattedar Passbooks Act, 1971, and the same reads as under:

"8(2) If any person is aggrieved as to any rights of which he is in possession by an entry made in any record of rights he may institute a suit against any person denying or interested to deny his title to such right for declaration of his right under Chapter VI of the Specific Relief Act, 1963 (Central Act 47 of 1963) and the entry in the record of rights shall be amended in accordance with any such declaration.

13. Taking into consideration all the above referred facts and circumstances and also the interim order dt. 04.03.2015 which is in force till as on date, the writ petition is allowed as prayed for and the impugned notice No.C/2671/2012, dated 31.01.2015 issued by the 2nd Respondent is set aside. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

MRS JUSTICE SUREPALLI NANDA

Dated: 10.03.2023

Note: L.R.Copy to be marked

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