

THE HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

WRIT PETITION No.33721 OF 2015

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ORDER:

Heard learned Senior Counsel for the petitioners, learned Government Pleader for Revenue appearing for respondents 1 to 4 and learned Government Pleader for Endowments appearing for respondents 5 and 6.

The petitioners have made application under Form VI-A of the Andhra Pradesh Rights in Land and Pattadar Passbooks Act, 1971 (for short, 'the Act') for grant of mutation and pattadar passbooks. They had earlier approached this Court in W.P.No.21711 of 2015 complaining the inaction on the part of the Tahsildar, Kadapa Mandal and District, the 4th respondent, in considering the said application. This Court by order, dated 28.07.2015, directed the 4th respondent to consider the application of the petitioners and communicate the decision thereof either accepting or rejecting the request of the petitioners. In pursuance of the said direction, the impugned endorsement in Ref.No.A/5366/2015, dated 03.09.2015, is communicated by the 4th respondent to the petitioners declining to grant the request of the petitioners for mutation and pattadar passbooks. Each of the petitioners is, accordingly, communicated with the very same identical order with the same file number, wherein the

4th respondent has stated that the District Collector treated the lands in question as the lands belonging to Moksha Ramalingeswara Swamy Temple and directed the District Registrar, Kadapa, to stop registration of the said lands in Ref.No.E1/1583/2012, dated 21.02.2013. Therefore, the 4th respondent has rejected the petitioners' request.

It is evident that merely based on the aforesaid letter of the District Collector, the petitioners request of mutation and pattadar passbooks is rejected. However, under the provisions of Section 5 of the Act, it is the duty of the recording authority, namely, the Tahsildar to issue notice to the persons, who claim interest in the said land including the temple, referred to above, and after hearing the petitioners and the said temple, he could

have passed appropriate orders on the applications of the petitioners. But, instead, the impugned order is passed rejecting the petitioners request at the threshold, merely on the letter of the District Collector.

Prima facie, the impugned order being violative of Section 5 of the Act, I deem it appropriate to set aside the said order and remit the matter to the 4th respondent for fresh consideration.

It is made clear that if the 4th respondent is of the opinion that the lands belong to the said temple, he is at liberty to issue notice to the temple and the petitioners, hear both of them and then pass appropriate orders, as already directed, preferably within a period of two months from the date of receipt of a copy of this order.

The Writ Petition is, accordingly, allowed. There shall be no order as to costs. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

VILAS V.AFZULPURKAR, J

12.10.2015

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