HON'BLE SRI JUSTICE CHALLA KODANDA RAM

W.P.No. 7594 of 2004

DATE: 10.06.2015

Between:

N. Lakshmamma .. Petitioner

And

The District Collector

and nine others .. Respondents

O R D E R:-

This case has chequered events. However, with the consent of the learned counsel for both the parties, without getting into many details this writ petition can be disposed of in the facts of the present case.

The brief facts are that both the petitioner and the unofficial respondents claim their rights over an agricultural land in an extent of Ac.3.90 cents in Sy.No.99/1 situated in R.K.V.B. Peta Village, Karvetinagar Mandal which is the ancestral property of one late Nalluri Chalapathi Raju. On the one hand, the petitioner is the wife of late N. Munaswamy Raju who is the son of N.Chalapathi Raju and on the other hand respondent Nos.5 and 6 who are grand children of N.Chalapathi Raju and born through his second wife. Respondent No.7 is the purchaser of the property from the legal heirs of respondent Nos.5 and 6 over an extent of Ac.1.33 cents and Ac.1.28½ cents by virtue of the registered sale deeds dated 31.09.2002 and 07.11.2002 respectively. So far as the property in an extent of Ac.1.33 cents is concerned, there is no much controversy as the same was acquired by the 7th respondent though a sale deed executed in her favour by the husband of Smt. Sanjeevamma who in turn acquired the same under registered sale deed dated 14.10.1970. Initially, the petitioner was granted pattadar passbook in her favour and the same came to be set aside by the Revenue Divisional Officer by his order dated 28.06.2000 which came to be challenged by the petitioner in W.P.No.12925 of 2000, and this Court, by order dated 12.12.2001, suspended the order of the Revenue Divisional Officer and directed the Mandal Revenue Officer to conduct *de nova* enquiry and determine the rights of the parties after issuance of notices to all the parties. The Mandal Revenue Officer, by order dated 19.04.2002, directed the petitioner to produce the passbook so as to effect changes in the revenue records and issue pattadar passbooks in favour of respondent Nos.5 and 6. Being aggrieved by the order of Mandal Revenue Officer, the petitioner preferred an appeal before the Revenue Divisional Officer, and now, the petitioner's grievance is that the Revenue Divisional Officer, by proceedings dated 16.02.2004, confirmed the orders of the Mandal Revenue Officer. Hence, the present writ petition is filed seeking to quash the impugned order dated 16.02.2004.

At the hearing, the learned counsel for both the parties have submitted that O.S.No. 65 of 2002 filed by the petitioner before the Court of the Principal Junior Civil Judge, Puttur seeking declaration of her title and consequential reliefs is pending and the suit is in the final stage and likely to get disposed of in a couple of months.

The learned counsel for the 7^{th} respondent has placed on record the judgment and decree dated 16.09.2004 in O.S.No. 13 of 2000 filed by the petitioner against respondent Nos.8 to 10 in the writ petition. This suit was filed for permanent injunction restraining the defendants therein, their men, agents, etc. not to interfere with the petitioner's peaceful possession and enjoyment over the suit property, and the suit came to be dismissed. In that view of the matter, as on date, there is no suit for injunction is pending against respondent Nos.8 to 10. It may also be noted that as on the date 19.04.2002 when the orders are passed by the Mandal Revenue Officer, the fact that the petitioner filed O.S.No. 65 of 2002 was not brought to the notice of the Mandal Revenue Officer and there is no reference of any contention having been raised by the petitioner that the suit is pending before the competent Civil Court in respect of the right, title and interest of the respective parties over the property in dispute. However, before the Revenue Divisional Officer, the factum of institution of the suit was mentioned and taken note of. A perusal of the order of the Revenue Divisional Officer reveals that the Revenue Divisional Officer, in the result portion, while making an observation that he has no reason to interfere with the order of the Mandal Revenue Officer dated 19.04.2002, did not specifically indicate that he confirmed the order of the Mandal Revenue Officer subject to the result of the suit. Even though Mandal Revenue Officer and the Revenue Divisional Officer had recorded findings and expressed opinion with respect to the sale deeds obtained by respondent Nos.5 and 6, the alienations made by them and the sale deeds obtained by respondent Nos.7 to 10, I consider it not necessary at this stage to render any opinion as to the validity or otherwise of their findings for the reason that any observation made in this writ petition is likely to cause prejudice to the rights of the parties in the pending suit. Further, the learned counsel for both the parties have fairly submitted that both the parties would be satisfied if the orders passed by the Revenue Divisional Officer purportedly confirming the orders of the

Mandal Revenue Officer are made subject to the result in O.S.No. 65 of 2002 with a liberty to any of the parties aggrieved to approach the revenue authorities for implementation of the judgment that may be delivered by the civil Court.

It is needless to mention that any person acquiring any rights in a given property as enumerated under Section 4 of the A.P. Rights in Land and Pattadar Pass Books Act, 1971 (for brevity "the Act") is required to make an application under Section 5 of the Act and the same is required to be considered in terms of the Rules prescribed therein. One of the modes of acquisition of rights is acquisition through a decree of a competent Court. Similarly, Section 8 of the Act also provides for entry in the record of rights in accordance with the judgment and decree of declaratory suits.

In the light of the very statutory provisions and in the facts and circumstances of the case, this Court feels that interests of justice would be met if the writ petition is disposed of with the following direction:

> "Liberty is given to both the parties to seek implementation of the judgment and decree of the civil Court in O.S.No. 13 of 2000, dated 16.09.2004 and also to approach the revenue authorities after delivery of the judgment in O.S.No. 65 of 2002 on the file of the Principal Junior Civil Judge, Puttur and seek necessary orders."

With the above direction, the writ petition is disposed of. No order as to costs.

As a sequel to the disposal of the writ petition, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

CHALLA KODANDA RAM, J

10.06.2015

bcj