

HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.12537 OF 2015

ORDER:

This writ petition is filed by the petitioner to declare the action of the respondents 2 to 4 in mutating the names of the respondents 6 to 9 in the revenue records is illegal, arbitrary and violation of principles of natural justice and consequently direct the respondents 2 to 4 not to mutate the names of the respondents 6 to 9 in the revenue records.

The brief facts of the case are that the petitioner filed O.S.No.249 of 2009 on the file of Additional Senior Civil Judge, Eluru, West Godavari District, seeking relief of injunction against the 5th respondent and his family members since they have no right over the schedule property. It is further submitted that originally the entire schedule property was partitioned among his brother and himself along with his father, since it is an ancestral property. It is further submitted that from the date of death of his brother and his wife, they have acquired the absolute rights over the schedule property by virtue of succession, but the 5th respondent with a malafide intention after the death of his brother and his wife trying to interfere with his peaceful possession and enjoyment of the same claiming that he is the adoptive son of his brother, which was questioned by him and other village elders. It is further submitted that the 5th respondent has created false and fictitious sale deeds in favour of respondents 6 to 9 by ignoring his rights over the schedule property and also the pendency of the O.S.No.249 of 2009 on the file of learned Additional Senior Civil Judge, Eluru. Therefore, he made a representation dated 06.02.2015 to the respondents 2 to 4 about the illegal acts adopted by the respondents 5 to 9. He also got filed a petition before the 3rd respondent-Revenue Divisional Officer, Eluru, seeking a relief of not to issue any pattadar passbooks in favour of respondents 6 to 9, which is pending before the 3rd respondent. Hence, the writ petition.

Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for Revenue (AP).

It is the contention of the petitioner that he is also entitled to a share in the subject property and his apprehension is that without considering the objections filed by him on 06.02.2015, the respondents 2 to 4 may consider the claims of respondents 5 to 9 and mutate their names in the revenue records and issue pattadar pass books and title deeds in their favour.

A perusal of the representation dated 06.02.2015 filed by the petitioner before the 3rd respondent-Revenue Divisional Officer, Eluru, would reveal that though the petitioner had mentioned the suit number i.e., O.S.No.249 of 2009 and also the writ petition proceedings pending before this Court i.e., W.P.No.39696 of 2014, the same is not in conformity with the requirement of filing an application categorically stating by way of an affidavit in what manner and in what way the petitioner has right over the subject property. In that view of the matter, liberty is given to the petitioner to once again file such an application before the 4th respondent-Tahsildar, Kamavarapukota, in response to the notice that is given to the petitioner with respect to the mutation in favour of respondents 6 to 9 or even otherwise. As and when such an application is filed by the petitioner, the same shall be considered in accordance with the law.

With the above observations, the writ petition is disposed of at the admission stage. There shall be no order as to costs. Miscellaneous Petitions, pending if any in this writ petition, shall stand closed.

JUSTICE CHALLA KODANDA RAM

Date: 27.04.2015

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