

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.29205 of 2015

ORDER:

Heard.

The petitioners question the order, dated 11-08-2015 passed by the 2nd respondent, whereby the revision filed by them was dismissed confirming the order of the 3rd respondent in LRDT/1414/2013, dated 20-12-2013. The 1st petitioner is the wife and the 2nd petitioner is the husband. It is stated that the lands in question fell to the share of the 2nd petitioner, which is the ancestral property and thereafter, on the request of the 2nd petitioner, pattadar pass books and title deeds were issued in favour of the 1st petitioner. While so, the 5th respondent, who is the elder brother of the 2nd petitioner, submitted a representation to the 3rd respondent alleging that he has been granted pattadar pass books in respect of the lands in question, but, however, the 2nd petitioner encroached the land in question and fraudulently obtained pattadar pass books in the name of his wife i.e., 1st petitioner. It is also stated that the 2nd petitioner took his original pattadar passbooks and D-form patta for settlement of Rastha Dispute in Court. The 3rd respondent entertained the representation of the 5th respondent and treating the same as an appeal, passed the order, dated 20-12-2013 directing cancellation of pattadar pass books issued in favour of the 1st petitioner and directed the 4th respondent to restore the land in favour of the 5th respondent and issue pattadar pass books and title deeds in favour of the 5th respondent. The said order has now been confirmed by the revisional authority.

Learned counsel for the petitioners states that there is no discretion by any of the authorities on the status of the lands, which the petitioners claim as ancestral lands and having fallen to the share of the 2nd petitioner.

I am unable to see any substance in the contention of the learned counsel for the petitioners in view of the factual position duly recorded by the

3rd respondent in the order, dated 20-12-2013 that in respect of the lands in question, pattadar pass books and title deeds were obtained by the 5th respondent vide document bearing No.223094 under Khata No.328 in the year 1995 and he is in possession of the lands in question since the date of assignment. All the authorities below, therefore, have rightly found that the lands in question were assigned in favour of the 5th respondent and he was also given pattadar passbooks and title deeds in respect of the said lands and accordingly, rightly cancelled the pattadar pass books and title deeds issued in favour of the 1st petitioner. Further, the contention of the 5th respondent that his younger brother (2nd petitioner) had taken pattadar pass books of the 5th respondent five years back for settlement of rasta dispute appears to be plausible.

After hearing the learned counsel for the petitioners at length, I am unable to see any justification on the part of the petitioners to contend that they are entitled to retain the lands in question, when it is clearly evident from the record that the lands in question were assigned in favour of the 5th respondent. Therefore, I do not see any merits in the writ petition.

However, the learned counsel for the petitioners states that the petitioners may be permitted to seek adjudication with regard to the nature of the lands as family lands and allotted to them under family partition.

As there are inter se disputes among the parties, if the petitioners have any such cause of action, they are at liberty to institute appropriate proceedings in accordance with law.

Hence, giving the aforesaid liberty, the writ petition is dismissed. Miscellaneous petitions, if any, pending shall stand closed. No costs.

VILAS V.AFZULPURKAR, J

Date: 09-09-2015

Prv

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