

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

WRIT PETITION No.13141 of 2011

Between:

-

Smt.Narra Mahalakshmi

---Petitioner

And

The Government of Andhra Pradesh
Rep.by its District Collector, Ongole,Prakasam District and others.

---Respondents

DATE OF JUDGMENT PRONOUNCED: 21-07-2015

SUBMITTED FOR APPROVAL:

-

-

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

- | | |
|--|--------|
| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of Judgment may be
marked to Law Reporters/Journals | Yes/No |
| 3. Whether Their Ladyship/Lordship wish
to see the fair copy of the Judgment? | Yes/No |

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.13141 of 2011

ORDER:

Heard learned counsel for the petitioner and the learned counsel for the respondents. With the consent of both the parties, the writ petition is disposed of at the admission stage.

The present writ petition came to be filed seeking issuance of Writ of Mandamus directing the respondents 1 to 3 to issue pattadar passbooks and title deeds in favour of the petitioner in respect of the land admeasuring Ac.3-00 cents in Sy.No.784/1, 2, 3, 4 of Kothapeta Village, Vetapalem Mandal , Prakasam District, by setting aside the endorsement No.L.Dis.No.450/2009, dated 11-09-2009 as illegal and arbitrary.

The averments in the affidavit filed in support of the writ petition show that the petitioner herein is said to have acquired property from her mother by name Gollaprolu Venkayamma admeasuring Ac.01-00 cents in Sy.No.748/3 and 4 under 'pasupukumkum' and the same was registered before the 4th respondent vide document No.3481/2008, dated 24-07-2008. The mother of the petitioner got the said property from her mother by name Smt.Chukka Subbamma vide document No.251/2004 dated 29-01-2004. The maternal grand mother of the petitioner Smt.Chukka Subbamma is said to have gifted the property admeasuring Ac.01-00 guntas in Sy.No.748/1 situated at Kothapeta Village, Vetapalem Mandal, in favour of the petitioner and the mother of the petitioner by name Smt.Gollaprolu Venkayamma and the same was registered before the 4th respondent vide document

No.3707/2008, dated 30-07-2008, wherein, the mother of the petitioner got only

life-time enjoyment rights and after her death, the rights get vested with the petitioner. It is stated that the said Chukka Subbamma got her brother's share after his death through document No.76/1990 and the same was executed on 09-11-1990 by her brother's wife by name Smt.Gollaprolu Sarojani. Thereafter, the petitioner purchased a property admeasuring Ac.01-00 guntas in Sy.No.748/1 situated at Kothapeta Village, Vetapalem Mandal from her maternal aunt by name Smt.Gollaprolu Ganga for valuable consideration. But the same was not registered by the 4th respondent on the pretext that Sy.Nos 748/1, 2, 3 and 4 are classified as assigned land. It is stated that the petitioner made a representation dated 06-09-2009 before the 1st respondent-District Collector, Ongole for regularization and registration of her lands.

The 1st respondent referred the matter to the 3rd respondent-Tahsildar to examine the request of the petitioner. The 3rd respondent vide his letter dated 450/09, dated 11-09-2009 informed the 1st respondent and the petitioner that as per Fair Land Register of Kothapeta Village, the total extent of land in Sy.No.748 admeasuring Ac.10-67 cents is classified as "Goyalu, Nimnajatulaku Manjuru Cheyutaku Reserve Cheyabadinadi" and the land in the said survey number is an Assigned Land and as such, the pattadar passbooks and Title deeds cannot be granted. Challenging the said letter, the present writ petition came to be filed.

Learned Government Pleader for Revenue filed counter denying the averments made in the petition. According to him, the petitioner's predecessors have violated Section 4(3) of the A.P.Assigned Lands (Prohibition of Transfers) Act, 1977 and purchased the assigned lands. The grand mother of the petitioner executed registered sale deeds 3707/2008, dated 30-07-2008 and

3481/2008, dated 24-07-2008 under Pasupu Kumkuma in favour of the petitioner. According to him, as the lands were classified as assigned lands, the petitioner's predecessor violated the conditions of assignment and purchased the same from landless poor persons. Therefore, it is stated that the order passed by the 3rd respondent is neither illegal nor incorrect. It is further stated that the 4th respondent (Sub-Registrar) registered the two documents in favour of the petitioner without intimating the same to the revenue authorities and the same is also illegal. On verification of F.L.R. it was found that these government lands were classified as "Gayalu" and as such, the question of registering those document does not arise. He submits that the petitioner has a remedy under the law, which he should avail.

Learned counsel for the petitioner would submit that the petitioner is in possession of the property since quite a long time and there is no dispute about the same from any quarter. Hence, he submits that the reason now given for issuance of pattadar passbooks and title deeds in favour of the petitioners cannot stand to the test of legal scrutiny.

Learned counsel for the petitioner placed reliance on an order, dated 20-03-2009, passed by this Court in W.P.No.4427 of 2009, wherein this Court directed registration of the property in respect of survey numbers in question.

A perusal of the material placed before the Court would show that the grievance of the petitioner is two fold. One is with regard to non-issuance of pattadar passbook and title deeds in favour of the petitioner and 2) for non-registration of the document by the 4th respondent. Insofar as the non-registration of the document is concerned, it is to be noted that the document, which is sought to be registered is an agreement of sale and not a regular sale deed. Therefore, the order passed by this Court in W.P.No.4427 of 2009 may

not be any help to him. Apart from that the Government Pleader submits that the said land cannot be registered as it is an assigned land, which was purchased by the predecessors of the petitioner violating the terms of assignment. It is further stated that earlier document came to be registered without any intimation to the revenue authorities and that suitable steps being not taken for cancellation of the same. Insofar as non-issuance of pattadar passbooks and title deeds issue is concerned, the Tahsildar made an endorsement stating that no pattadar passbook or title deed can be issued in respect of land in question, as the same is classified as "Goyalu, Nimnajatulaku Manjuru Cheyutaku Reserve Cheyabadinadi." If the petitioner is aggrieved by the order passed by Tahsildar, the remedy of revision is available to him under the R.O.R. Act. The Apex Court in **Commissioner of**

Income Tax v. Chhabil Dass Agarwal^[1] held that "*the High Court will not entertain a petition under Article 226 of Constitution, if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance still holds the field. Therefore, when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation.*"

For the aforesaid reasons, without going into the merits of the case, the writ petition is dismissed leaving it open to the petitioner to avail remedy available under law. As a sequel thereto, Miscellaneous Petitions, if any, pending in this Writ Petition, shall stand closed. There shall be no order as to costs.

JUSTICE C. PRAVEEN KUMAR

21-07-2015
nvl

[\[1\]](#) (2014) 1 SCC 603