THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.9711 of 2015

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Between:

1. Keshaveni Odelu Uday and another

PETITIONERS

AND

1. State of Telangana, rep. by its Principal Secretary (Revenue), Secretariat, Hyderabad, and another.

RESPONDENTS

ORDER:

The petitioners challenge the notice No.G/799/2015, dated 23.02.2015 issued by the 2nd respondent as illegal and arbitrary.

The case of the petitioner is that the 1st petitioner and the 4th respondent herein entered into a sale transaction with the 2nd petitioner, and the 2nd petitioner executed a registered sale deed dated 11.11.2010 in favour of the 1st petitioner as well as the 4th respondent. Thereafter as they could not pay the full sale consideration, they have entered into another agreement on 3.12.2010 agreeing to pay the remaining sale consideration of Rs.41 lakhs within six months and the remaining amount after disposal of the land. In the event they fail to sell the land within six months they had to hand over the remaining land to the 2nd petitioner. While so, The 4th respondent filed a representation dated 9.02.2015 before the 2nd respondent stating that the 1st petitioner and he jointly purchased an extent of Ac.1.05 gts., of land in Sy.No.40/A situated at Narspur, Manchiryal Mandal, Adilabad District, through Registered sale deed vide document No.7320/2010, dated 11.11.2010. Now he came to know that the 2nd petitioner gifted the said land in favour of his wife and also obtained pattadar passbook, and suppressing the said fact executed sale deed in their favour. Hence the 4th respondent prayed for mutation of their name in the revenue records and for issuance of pattadar passbooks in their favour. Therefore, the 2nd respondent issued the impugned notice dated 23.02.2015 entertaining the said application filed under Section 5(v) of the A.P. Rights in Land and Pattadar Passbooks Act, 1971. Hence the petitioners filed the present writ petition.

Heard learned counsel for the petitioners and learned Assistant Government Pleader for Revenue (Telangana) for respondents.

The learned counsel for the petitioners contends that the 1st petitioner and the 4th respondent got executed sale deed in their favour without payment of full consideration and as a matter of fact, on 3.12.2010 they also entered into a sale transaction with the 2nd petitioner agreeing to sell the land and will pay a sum of Rs.41 lakhs within six months and in the event of failure to pay the same, they will handover the remaining land to the 2nd petitioner. On account of non-payment of full consideration and non-fulfilment of agreement dated 3.12.2010, the 4th respondent is not entitled to get his name mutated in the revenue records and for issuance of pattadar passbooks in his favour. The learned counsel further submits that even assuming that the 4th respondent is entitled to get his name mutated on account of the fact that the property came to be purchased jointly by the 1st petitioner and the 4th respondent, the 4th respondent alone cannot seek for mutation in exclusion to the name of the 1st petitioner.

On the other hand, learned Assistant Government Pleader for Revenue Sri C. Pavan Reddy, pointing out the notice dated 23.02.2015 submits that though the 4th respondent in his representation dated 9.02.2015 made a grievance and prayed for issuance of pattadar passbook and mutation, the same cannot be treated as an application under Section 5(5) of the Act in exclusion of the name of the 1st petitioner. By drawing the attention of this Court to the representation dated 9.02.2015, which is in vernacular, the learned Assistant Government Pleader pointed out that the expression used "maku" (_______) cannot be considered as an application made to exclude the 1st petitioner's name. he further pointed out that in the very opening sentence of the said request, the 4th respondent had mentioned that they had acquired the property through a registered sale deed bearing document No.7320/2010 wherein names of both the 1st petitioner as well as the 4th respondent are mentioned, thereby meaning that the property was acquired as a joint property in their joint names. He further pointed out that the petitioners had not denied the allegation of the 4th respondent that the 2nd respondent obtained mutation in his wife's name, viz., Smt. Ponugoti Padmalata by way of a registered gift deed dated 3.08.2014 and got her name mutated in the revenue records on 19.09.2014. At any rate, there is no reason for the 1st petitioner that the 2nd respondent would ignore or would not consider the submissions made by the petitioners. In that view of the matter the learned Assistant Government Pleader submits that the writ petition itself is devoid of merit and ought not to be entertained.

Having considered the rival submissions and having perused the material on record this Court is in agreement with the contention of the learned Assistant Government Pleader. The representation dated 9.02.2015 of the 4th respondent cannot be treated as an application submitted for mutation in revenue records exclusively in his name. The expression used in the said representation "maku" (_______) means, to us. If it is the intention of the 4th respondent that mutation shall be made exclusively in his favour he would not have been mentioned the fact that the property came to be purchased by himself and the 1st petitioner. At any rate, the Mandal Revenue Officer, who is the competent authority to make amendments or alterations in the revenue records, is required to look into the documents and verify the claim and thereafter pass orders.

In that view of the matter, there is no basis for the 1st petitioner's apprehension that the 4th respondent's name would be mutated in exclusion of his name. However, the question that is required to be considered by the 2nd respondent in appeal as to the legality of mutation in favour of Smt. Ponugoti Padmalata when indisputably by way of sale deed the property came to be sold in favour of the 1st petitioner and the 4th respondent. However I am unable to accept the contention of the learned counsel for the petitioners that on account of the fact that the subsequent agreement dated 3.12.2010 the sale deed dated 11.11.2010 would be a nullity and non-existence. Such contention does not stand for legal scrutiny in view of Section 55 of the Transfer of Property Act, which confers absolute title and right in favour of the purchasers. At any rate considering the fact that the 2nd respondent had already ceased of the case and had issued notice, it is open for the petitioners to raise all the objections including the affect of alleged agreement dated 3.12.2010 before the 2nd respondent. As and when such objections are raised, the 2nd respondent shall consider the same and pass necessary orders in accordance with law.

Accordingly, the writ petition is dismissed subject to the above observations. No costs. As a sequel, miscellaneous petitions, if any, shall stand closed.

CHALLA KODANDA RAM, J.

7th April, 2015

Js.