

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.11888 OF 2015

ORDER:

Challenging the action of the 2nd respondent-Tahsildar in issuing the Endorsement dated 09.03.2015 directing the 5th respondent to get Rectification Deed with regard to the land over an extent of Ac.0.90 cents, situated in Sy.No.350/1B, Gopalapuram Village and Mandal, West Godavari District, without verifying the title of the 5th respondent's vendor and trying to change the records with respect to the above said land, this writ petition is filed.

The petitioner's case is that he owns agricultural land admeasuring Ac.10.21 cents in R.S.No.350/1, Gopalapuram Village and Mandal, West Godavari District, by way of a partition deed dated 12.07.1949; basing on which, the revenue authorities issued pattadar pass books and title deeds in his favour. While so, on 07.03.2015, the 2nd respondent-Tahsildar issued a notice to the petitioner stating that as per the Surveyor's report he is in possession of Ac.7.31 cents only, whereas he obtained pattadar pass books for Ac.10.21 cents and hence the 2nd respondent-Tahsildar, directed the petitioner to submit his explanation within 15 days. Pursuant to the said notice, though the petitioner submitted his explanation, the 2nd respondent, without considering his explanation and without affording an opportunity of hearing, directed the 5th respondent, through Endorsement dated 09.03.2015, to get a Rectification Deed and also trying to change the revenue records basing on the FMB record pertaining to the year 1985. Hence, the present writ petition.

Heard Sri M.P.V.N.V. Sastry, learned counsel for the petitioner and the learned Assistant Government Pleader for Revenue (A.P).

Learned counsel for the petitioner submits that the 5th respondent claimed to have purchased the property situated in R.S.No.350/1, Gopalapuram Village and Mandal, West Godavari District, through a registered sale deed; that initially the 5th respondent's claim was for the property situated in Sy.No.316 of the above said village and later by way of an amendment, the same came to be changed to Sy.No.350/1B, by way of a supplementary rectification deed.

It is the submission of the petitioner that the application of the 5th respondent

ought not to have been entertained as the claim itself is based on the advise of the 2nd respondent-Tahsildar by the impugned Endorsement dated 09.03.2015 wherein he has directed the 5th respondent to get the corrections made in the sale deed as Sy.No.350/1B. Accordingly, the 5th respondent got the changes in the sale deed and thereafter approached the 2nd respondent and the 2nd respondent in turn had issued the notice dated 07.3.2015 to the petitioner.

The writ petition is not maintainable, as the proper remedy for the petitioner is elsewhere, to raise the objections with regard to grant of mutation in favour of the 5th respondent for the above said land. So far as the 5th respondent is concerned, he is claiming mutation on the ground that the petitioner executed a sale deed in his favour with survey number 315. Later the same was changed by way of a rectification deed by mentioning the Survey Number as 316 in Document Number 767 of 2014 dated 15.04.2014. The necessary application shall be made in terms of Section 4(1) of the A.P. Rights in Land and Pattadar Pass Books Act, 1971 (for short, "the Act") read with Rule 9(1)(a)(ii) of the Rules. The Act and the Rules provide for a procedure for raising the objections with regard to grant of mutation in the cases falling under Sections 4(1) and 5 of the Act. Such objections shall be raised in accordance with law and the prescribed procedures are required to be followed by the 2nd respondent as per the provisions of Section 5(2) of the Act and necessary orders would be passed under Section 5(3) of the Act and such orders are amenable to the appellate jurisdiction under Section 5(5) of the Act.

In view of the above legal provision and procedure prescribed, the writ petition is misconceived and accordingly the same is not entertained. However, liberty is given to the petitioner to approach the 2nd respondent-Tahsildar and file his objections and on such filing, the 2nd respondent shall consider the same in accordance with law. Any observations made in this order shall not be construed as expressing of any opinion with respect to the rights of the respective parties.

Accordingly, the writ petition is dismissed. Miscellaneous Petitions, if any pending in this writ petition shall stand closed. No order as to costs.

CHALLA KODANDA RAM,J

Date:23.04.2015.

Gk.

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