

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.7604 OF 2015

ORDER:

Challenging the inaction of respondents 3 and 4 in granting the pattadar pass books and title deeds in favour of the petitioner for the dry land over an extent of Ac.34.64 cents, Cherlopalle Village, Penukonda Mandal, Ananthapur District, the present writ petition is filed.

It is the case of the petitioner that by proceedings dated 04.03.2015, 4th respondent-Tahsildar rejected the applications of the petitioner under Section 4(1) and Rule 18 as per amendment of the A.P Rights in Land and Pattadar Pass Books Act, 1994 (for short, "the Act"), on flimsy and untenable grounds. Petitioner claims that she is the successor of B. Venkataramana Rao who is the son of B. Rajagopala Rao and Smt B. Jayamma and she inherited the properties over a total extent of Ac.34.64 cents in Sy.Nos.109/2, 14, 64/3 and 90/2, Cherlopalle Village Penukonda Mandal, Ananthapur District. Out of the same, an extent of Ac.5.06 cents is by way of purchase through document No.528/1991 dated 18.04.1991 and the balance is by virtue of the Will dated 01.11.2001 by her mother-in-law who is the pattadar.

The application has been rejected without enquiry simply stating that there are six writ petitions pending before the High Court. Petitioner submits that no counter, whatsoever, has been filed stating that the land which has been claimed by the petitioner by way of succession and the subject matter of the said six pending writ petitions is one and the same. To buttress the arguments of the petitioner, petitioner had placed on record the copy of the writ affidavit filed in W.P.No.5421 of 2004.

A prima facie perusal of the affidavits filed in W.P.Nos.45,65,4569,5421,6532,6533 and 7270 of 2004, reveals that the dispute relates to pattas granted in favour of the writ petitioners

therein and it is not the case of the 4th respondent that the land that is being claimed for mutation by the petitioner herein and the land which is the subject matter of the writ petitions in the above said writ petitions is one and the same. By merely setting out the writ petition numbers, an endorsement rejecting the claim of the petitioner for mutation is passed. There is a duty cast on the 4th respondent to pass a reasoned order setting out the reasons in what manner the said writ petitions are relevant for the purpose of claiming the mutation and amendment in the revenue records on the claim of the petitioner and on the allegation which is made under Section 4(1) of the Act. As a matter of fact, it may not be out of place to mention that when an amendment in the revenue records is sought on the ground of succession and on the ground of acquiring the property through the registered sale deeds, the relevant rules applicable are Rule 9(1)(a) and 9(1)(ii) of the Act. Only in cases where there is objection filed in compliance with the Rule 9(1)(c)(ii) of the Act alone are required to be taken into consideration without considering the claim for amendment of entry in the revenue records and issuance of fresh pass books for the cases falling under Section 4(1) of the Act. Rule 9(1)(c)(ii) of the Act reads as under:

“(ii) In respect of case falling under Rule 9(1)(a)(i), the Mandal Revenue Officer shall hold a summary enquiry as to who has the right to succeed to the property of the deceased registered holder, according to the principles of the Law Of Succession which govern the case and give notice to all persons known or believed to be interested to the effect that the registry will be made in the name of the person found to be entitled, unless a declaration is filed, within three months from the date of the notice, by any person objecting to the registry, stating that he has instituted a suit in a Civil Court to establish his superior title and an authenticated copy of the plaint in the suit is produced. If no declaration is filed, the registry should be made as stated in the notice, at the expiration of three months. If declaration is filed, the result of the suit should be awaited before taking further action.”

It is not the case of the 4th respondent that there are any suits pending and any such injunction has been made to the 4th respondent nor is it the case of the 4th respondent that there are any rival claimants. Even without issuing notice to the parties concerned as required in terms of Section 5 of the Act and conducting enquiry under Section 5(3) of the Act, the impugned endorsement has been issued. In the light of the same, the impugned endorsement dated 04.03.2013 is untenable and as such it is set aside. In the facts of the case, the 4th respondent shall take into consideration all relevant factors and conduct enquiry and process the application filed by the petitioner in accordance with law.

With the above observations, the writ petition is disposed of. No order as to costs. Miscellaneous Petitions, if any pending in this writ petition shall stand closed.

CHALLA KODANDA RAM,J

Date:23.03.2015.

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HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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