

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION NO.12556 OF 2005

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for the respondents.

The petitioner states that she purchased land of an extent of Acs.5.00 in Survey No.331/19 of Sridhara Velair, Burgampadu Mandal, Khammam District, from the fifth respondent on 22.06.1968 and she had been in possession of the said land from the date of her purchase. Consequent to her application, she was also issued pattadar pass books and title deeds under the provisions of the Andhra Pradesh Rights in Land Pattadar Pass Books Act, 1971. While so, the fifth respondent initiated proceedings against the sixth respondent in LTR.No.H/178/94/BPD before the fourth respondent, who ordered ejection by proceedings dated 28.08.2001. It is the case of the petitioner that as on the date of the order of the ejection, she was in possession of the property as she purchased the same on 22.06.1968. Against the order of ejection passed by the fourth respondent, the petitioner preferred appeal to the second respondent, which was transferred to the third respondent. The third respondent dismissed the appeal by order dated 19.03.2005 along with I.A.No.53 of 2003 in C.M.A.No.77 of 2003. The third respondent dismissed the appeal on the ground that in the pahanis for the year 1993-94, the name of the fifth respondent was not shown and the petitioner herein, as appellant, cannot claim possession of the property by virtue of a sale that took place in the year 1968. The cist receipts filed by the petitioner for the years 1990, 1993, 1995, 1997, 1998 and 1999 were brushed aside stating that they were no way helpful to the appellant's claim. The appeal was ultimately dismissed on the ground of non-filing of sufficient documentary evidence. It was also observed that the issuance of pattadar pass books and title deeds do not over ride the provisions of the Land Transfer Regulations.

Learned counsel for the petitioner submits that the documents filed by the petitioner were not taken into consideration by the lower appellate

authority and the lower appellate authority should have seen that the sixth respondent herein, the respondent before the fourth respondent, was not in possession of the property.

It is also clear from the record that proceedings were taken by the fourth respondent *suo motu* by showing the fifth respondent as petitioner and the sixth respondent herein as respondent before the fourth respondent did not appear in the claim. In view of lack of opportunity to the petitioner to present her case before the fourth respondent, the third respondent should have taken more care in examining the case of the writ petitioner before confirming the order of ejection passed by the fourth respondent.

In the circumstances, the Writ Petition is allowed and the order passed by the third respondent in I.A.No.53 of 2003 in C.M.A.No.77 of 2003 dated 19.03.2005 is set aside and the matter is remanded to the third respondent for giving due opportunity to the writ petitioner and for considering her case in the light of the documents produced by her and for passing appropriate orders in accordance with law within a period of six (6) months from the date of a copy of this order. The interim stay granted by this Court on 15.06.2005 shall continue till the disposal of the appeal by the third respondent. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(A.RAMALINGESWARA RAO, J)

23rd March 2015
RRB