HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.4908 OF 2011

ORDER:

The writ petitioner challenges the order dated 30.09.2009 passed by the 2nd respondent-Joint Collector, Nellore, SPSR Nellore District.

The brief facts are that petitioner claims to have purchased an extent of Ac.21-10 cents of land from its original owners under six different sale deeds between 1990 and 2007. The details are not required to be set out in the present case as they are contained in the orders of the authorities below. The petitioner got mutated his name and obtained pattadar passbooks in his name in 2007. However, later the 4th respondent-Tahasildar, Naidupet Mandal, on noticing certain discrepancies with regard to the lands situated in Sy.No.9/7 over an extent of Ac.8-20 cents acquired by the petitioner through sale deeds bearing Nos.1478/1995, 1038/1996, 160/1998 and 657/2007, after issuing notice to the petitioner, directed deletion of the name of the petitioner from the pattadar passbooks granted in favour of the petitioner for an extent of Ac.6-20 cents vide orders dated 21.07.2008 in Rc.B No.207/2008. The deletion was ordered by the authorities after they found that the petitioner could not have acquired valid title for the lands over an extent of Ac.6-20 cents, as the said lands were already sold in favour of the 5th respondent and their family members way back in the years 1989 and 1991 and their names were mutated in the revenue records. In the process of enquiry as the respondent authorities found that they were mislead thereby erroneously granting pattadar passbooks in favour of the petitioner to the extent of Ac.6-20 cents, the deletion was directed to be made. On a complaint received by the Revenue Divisional Officer, the Revenue Divisional Officer after calling for records and enquiring into the matter found that the lands which were alleged to have been acquired by the petitioner were already transferred in favour of the 5th respondent and his family members, thus the petitioner could not have been granted mutation and pattadar passbooks in his favour. Petitioner challenging the said order dated 09.09.2008 of the 3rd respondent-Revenue Divisional Officer filed a revision before the 2nd respondent-Joint Collector, who in turn confirmed the same vide orders dated 30.09.2009 in Case No.D.Dis.(E10).4515/2008. Assailing the said order of the Joint Collector, the present Writ petition is filed.

Sri T.C.Krishnan, learned counsel for the petitioner by copiously taking this Court to the orders of the Revenue Divisional Officer as well as the Joint Collector submits that the revenue authorities, had gone to the extent of declaring the sale deeds as invalid which power is not vested with them as the said power is only vested with civil court, who can give a declaratory relief of invalidity of the sale deeds under the provisions of the Specific Relief Act. Learned counsel for the petitioner further submits that the petitioner filed a suit in O.S.No.279 of 2010 on the file of Senior Civil Judge, Gudur seeking declaration of title, interest and possession over the plaint schedule property and for grant of permanent injunction which is still pending and the observations made by the revenue authorities would cause prejudice to his case in the civil proceedings.

On the other hand Sri Ganga Rami Reddy, learned counsel appearing for the 5th respondent submits that his clients, acquired the property over an extent of Ac.52-05 cents long time ago even much before the acquisition of rights by the petitioner and their names were recorded in the revenue records and pattadar passbooks were also issued in their favour. The vendors of the petitioner and others fraudulently have executed sale deeds in favour of the petitioner though they had no tangible and subsisting rights in the property. Learned counsel also submits that there was no notice issued to them before granting of the mutation in favour of the petitioner and issuance of pattadar passbooks is contrary to the procedure prescribed under the ROR Act, particularly under Section 5(3) read with Rule 9 of the ROR Rules. It is also submitted by the learned counsel Sri Ganga Rami Reddy that the petitioner had filed O.S.No.145 of 2008 on the file of the Senior Civil Judge, Gudur seeking permanent injunction, and the same was dismissed. Thereafter, the petitioner had also filed another suit bearing O.S.No.279 of 2010 on the file of Senior Civil Judge, Gudur seeking for declaration of title and also for grant of injunction.

Having heard both the learned counsel, *prima facie* I do not find any infirmity in the orders of the 2nd respondent-Joint Collector in dismissing the revision filed by the petitioner by confirming the orders of the 3rd respondent-Revenue Divisional Officer. The observations which were made with regard to the validity or otherwise of the sale deeds only in the context of considering the claim of the petitioner whether his name is required to be mutated in the revenue records and is entitled to grant of pattadar passbooks or not. In the context of considering the claim of the petitioner that he had acquired these properties from his vendors, one of the requirements that is required to be considered by the revenue authorities is that whether the vendors were owners of the property. In that context considering the documents placed before the authorities, the authorities had come to a conclusion *prima facie* that the petitioner could not have acquired a valid title. However, in the light of the submissions made by both the learned counsel that a comprehensive suit is filed by the petitioner bearing O.S.No.279 of 2010 on the file of Senior Civil Judge, Gudur, seeking declarative relief, the said observations would be always subject to the result of the said suit, wherein the substantive rights of the parties are required to be adjudicated.

In that view of the matter, the Writ Petition is disposed of giving liberty to the petitioner or 5th respondent to approach the revenue authorities after the decision of the civil court by making their claims and the same shall be considered by the revenue authorities in accordance with law. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE CHALLA KODANDA RAM

Dated:11.06.2015.
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