

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 6892 of 2015

ORDER:

The petitioner challenges the endorsement dated 25.02.2015 issued by the 4th respondent refusing to entertain his application for mutation and issuance of pattadar passbooks and title deeds based on his claim of purchasing the property through registered sale deeds.

2. The 4th respondent issued the impugned endorsement stating that there is a dispute based on the information that the vendors of the petitioner had forged the signatures in the Will alleged to have been executed by their brothers who died issueless. The Tahsildar-recording authority setting out the said reasons had directed the petitioner to approach the civil Court to establish his right.

3. Learned Assistant Government Pleader submits that the impugned order is appealable under Section 5(5) of the A.P. Rights in Land and Pattadar Passbooks Act, 1971 (for short, 'the Act') and hence the petitioner may be relegated to avail the remedy of appeal.

4. A perusal of the impugned order reveals that initially a person by name Nagella Venkata Subba Rao claiming to be the son of Nagella Venkata Subbaiah filed an application before the recording authority for mutation of his name based on an unregistered Will. On enquiry, it came to light that the said Venkata Subba Rao was the son of Vankayalapati Subba Rao and was not the son of Nagella Venkata Subbaiah as claimed. Further, the local enquiry has revealed that Nagella Venkata Subbaiah's brothers Nagella China Subbaiah and Nagella Bala Subbaiah fingerprints have been forged. Stating the above reasons, the Tahsildar rejected the application made by the petitioner for mutation and issuance of pattadar passbooks for the property.

5. The facts as stated supra reveal that there is an enquiry that is required to be made with respect to the truth or otherwise of the allegations. Inasmuch as there is an effective alternative remedy by way of an appeal to the Revenue Divisional Officer under Section 5(5) of the Act, I am not inclined to entertain the writ petition. In the facts and circumstances of the case, the factual aspects, including the aspect whether the vendors of the petitioner had authority to execute a sale deed and, if so,

the basis of the same, are all issues which can be enquired into by the 5th respondent; or even otherwise the 5th respondent may remand the case after enquiry to the 4th respondent to take necessary steps. The 3rd respondent-Revenue Divisional Officer, as an appellate authority, has wide powers and the grievance of the petitioner can effectively be redressed by the 3rd respondent.

6. In that view of the matter, liberty is given to the petitioner to approach the 3rd respondent-appellate authority by way of filing an appeal and seek appropriate orders. As and when such an appeal is filed, the same shall be considered and disposed of, after issuing notice to all the interested parties, in accordance with law, within a period of six months from the date of filing of appeal.

7. Accordingly, the writ petition is disposed of. No costs. Miscellaneous petitions, if any pending, shall stand closed.

CHALLA KODANDA RAM, J

17th March, 2015

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