

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH

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WRIT PETITION No. 2423 of 2015

BETWEEN

K.Suchendar

... PETITIONER

AND

The District Collector, Chittoor District and others

...RESPONDENTS

Date of Order pronounced: 17.11.2015

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

1. Whether Reporters of Local newspapers Yes/No
may be allowed to see the Judgments?

2. Whether the copies of judgment may be Yes/No
marked to Law Reporters/Journals?

3. Whether his Lordship wish to see the Yes/No
fair copy of the Judgment?

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ORDER:-

Heard learned counsel for the petitioner and learned government pleader for Revenue.

2. The brief facts necessary for disposal of this writ petition are as follows:

Petitioner claims that land in an extent of Ac.31-31 cents in Survey No.226/1 of Aranyam Kamdriga Village is a private patta land belonging to Raja Ramakrishna Mambagaru and that he sold Ac.16-66 cents thereof and other lands in Manchi Theerthakona to one Bhaskaramma under registered sale deed dated 19.05.1951. The said Bhaskaramma in turn sold the land to the mother of the petitioner under registered sale deed dated 27.01.1963 and since then petitioner's mother is stated to be under possession and enjoyment. Subsequently, the remaining land of Ac.14-65 cents was also sold by Raja Ramakrishna Mambagaru to one Raja Jayaakshmbamba on 12.06.1951. Petitioner's mother purchased the said lands also on 27.01.1962 and has been in exclusive possession and enjoyment of the total extent of Ac.31-31 cents in survey No.226/1 and she claims to have been issued a Ryotwari passbook in her name.

While so, one Adusumalli Ramakrishna Naidu filed a suit viz., O.S.No.328 of 1985 before the Principal District Munsif, Guntur seeking permanent injunction. Ultimately, the said suit was dismissed vide orders in the S.A.No.1051 of 1999 dated 12.06.2008, which was confirmed by the Supreme Court in SLP viz., Appeal (Civil) in CC.No.4352 of 2009 dated 13.04.2009. The said Ramakrishna Naidu also appears to have filed a claim before the Settlement Officer under Estate Abolition Act, which was contested by the mother of the petitioner and thereafter, the petitioner. However, the Settlement Officer passed an order dated 04.12.2010 rejecting the claim of the petitioner, said Ramakrishna Naidu, as well as the mother of the petitioner *inter alia* holding that the land is recorded in the classification of Adavi Poramboke. Based on that, the Tahsildar changed the classification

of the land as Adavi Poramboke. Aggrieved by the order for the Joint Collector, petitioner's mother as well as the Rama Krishna Naidu preferred appeals before the Inams Tribunal being EA TA Nos.4 and 5 of 2011 respectively, which were allowed on 07.12.2012 setting aside the order of the Settlement officer and remitting the matter for fresh consideration. Thereafter, a fresh order was passed by the Joint Collector-cum-Settlement Officer dated 18.07.2014 duly recording that the legal heirs of the said Rama Krishna Naidu had withdrawn the claim petition and accordingly, it was dismissed as withdrawn. Petitioner states that after the said order of the Joint Collector-cum-Settlement Officer the classification of the land of Adavi Poramboke was deleted from the Schedule, but the Tahsildar has not been implementing the said order by rectifying the entry as Adavi Poramboke from the revenue record.

Petitioner has given a legal notice dated 01.10.2012 and also filed a representation before the Tahsildar. But since no action was taken by the Tahsildar, petitioner filed a further petition before the Joint Collector, Chittoor on 20.11.2014 seeking to declare that changes effected by the Tahsildar in the revenue records changing the classification as Adavi Poramboke is erroneous and liable to be restored by showing it as patta land of the petitioner. The present writ petition is also filed seeking to restore the classification.

3. The third respondent has filed a counter affidavit reiterating and asserting that as per the revenue record entire Ac.44-60 comprised in survey No.226 is classified as Adavi Poramboke and petitioner cannot claim as pattadar of Ac.31-31 cents in survey No.226/1.

4. After hearing learned counsel for the petitioner and the learned Government Pleader, it is evident that the classification in the revenue record is for the entire extent of Ac.44-60 cents as Adavi Poramboke. Whether the petitioner's land in an extent of Ac.31-31 cents would form part thereof or whether it is a separate extent under survey No.226/1 or whether it is classified as patta land, are all matters of factual enquiry before the revenue authorities by examining the claim of the petitioner vis-à-vis the revenue records. This Court under extraordinary jurisdiction under Article 226 of the Constitution of India cannot entertain such factual enquiry.

5. However, since petitioner's revision petition before the Joint collector, as stated above, is pending, it is appropriate for the Joint Collector to consider the said issue. In addition to that

the petitioner also gave legal notice and the Tahsildar also sought necessary directions from the Joint Collector, Chittoor vide his letter No.ROC.B/715/1997 dated 06.09.2014 and that issue also appears to be pending with the Joint Collector. Hence, in my view, it would be just and appropriate to direct the second respondent-Joint Collector-cum-Settlement Officer to fix a date of hearing in the said revision petition preferred by the petitioner (Copy of which is produced along with the writ petition as Ex.P11), hear the parties, examine the revenue records and decide the matter relating classification once and for all so that the controversy is settled as expeditiously as possible.

Writ petition is accordingly disposed of with the above direction. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

November 17, 2015

LMV