HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 30857 of 2011

ORDER:

Heard learned counsel for the petitioner, learned Government Pleader for Revenue and learned Government Pleader for Home.

With the consent of all the parties, the writ petition is disposed of at the admission stage.

The present writ petition came to filed seeking issuance of a writ of mandamus declaring the action of the second respondent in not considering the representation of the petitioner, dated 25.10.2011, as arbitrary, illegal and violative of principles of natural justice; and consequently to issue a direction to the respondents to consider the representation of the petitioner by conducting an enquiry with regard to the bogus passbooks and title deeds vide proceedings No. 6A/19/2008 dated 26.06.2008 and 6A/32/2008 dated 15.07.2008 produced by the seventh respondent in getting the lands mutated in his name.

The averments in the affidavit filed in support of the writ petition are as under:

The petitioner claims himself to be the owner of the land admeasuring Ac.1.00 situated in Sy.No.15/A of Pebbair Village and Mandal, Manaboobnagar District, said to have been purchased by him in the year 1993. The name of the petitioner was mutated in the revenue records and pattadar pass books and title deeds were also issued to the petitioner. Since then, the petitioner is in peaceful possession and enjoyment of the said property. While things stood thus, in the year 1999, the seventh respondent approached the petitioner to purchase the above said property for a sum of Rs.8,000/-

. It is stated that at the time of registration, the seventh respondent promised to pay the sale consideration at his residence after going back from the Registrar's office. Thereafter, the seventh respondent failed to pay the sale consideration as promised in the presence of witnesses and the same was brought to the notice of the witnesses requesting them either to make the seventh respondent pay the sale consideration or to cancel the registration made in favour of the seventh respondent. Though the witnesses tried to settle the dispute, there is no change in the attitude of the seventh respondent.

It is stated that the petitioner approached the sixth respondent with a request to cancel the document, but the sixth respondent is alleged to have stated that he has no power to cancel the registration. While so, the seventh respondent approached the revenue authorities to get his name mutated in the revenue records. It is further stated that the seventh respondent is trying to sell the property with the help of forged pass books and title deeds. The petitioner vide his letter dated 18.08.2011 submitted his objections to the third respondent with regard to alleged mutation and requested him to conduct enquiry. The third respondent inturn directed the Revenue Secretary, Pebbair to conduct enquiry and to submit a report, which is said to be pending. At this point of time, the revenue authorities issued a notice dated 07.09.2011 directing the petitioner to attend before the revenue authorities in respect of mutation proceedings, for which the petitioner went to the office of the respondent authorities on 09.09.2011 but he was informed that the officer was not available. The petitioner is said to have lodged a report on 27.09.2011 before the fifth respondent bringing to his notice the forged documents submitted by the seventh respondent and sought for an action. Stating all the above issues, the petitioner made a representation to the second respondent requesting him to conduct an enquiry with regard to the bogus pass books and title deeds vide proceedings No. 6A/19/2008 dated 26.06.2008 and 6A/32/2008 dated 15.07.2008 produced by the seventh respondent in respect of the above land. Inaction of the second respondent in considering the said representation lead to filing of the present writ petition.

On behalf of the third respondent, a counter affidavit came to be filed denying the averments made in the writ petition. According to him, the petitioner sold the land in favour of the seventh respondent, executed a registered sale deed No. 2154/1999 and delivered possession. In the sale deed it was categorically mentioned about the receipt of the sale consideration. It is stated that seventh respondent having acquired the right over the said property through the above said sale deed, got mutated his name in the revenue records. He thus submits that there are no merits in the writ petition and the question of considering the representation of the petitioner by the second respondent to cancel the sale deed is a factual aspect which cannot be decided by this Court.

As seen from the record, the petitioner claims to be the owner of the land admeasuring Ac.1.00 in Sy.No.15/A of Pebbair Village and Mandal, Mahaboobnagar District and sold the same to the seventh respondent for a consideration of Rs.8,000/-. The sale deed which was executed before the Sub-Registrar, clearly show the receipt of the sale consideration by the petitioner. Thereafter, the seventh respondent made an application for mutation of his name in the revenue records. The issue as to whether the petitioner received the sale consideration cannot be gone into by the revenue authorities or by this Court in this writ petition. The remedy lies elsewhere but definitely not before this Court under Article 226 of the Constitution of India. Such being the position, the question of second respondent considering the representation of the petitioner for cancellation of alleged pass books and title deeds does not arise. Hence, I see no grounds to entertain the writ petition. However, the petitioner is always at liberty to avail the remedies available under law for seeking the cancellation of the sale deed, alleged pattadar pass books and title deeds before the appropriate forum.

With the above direction, the writ petition is disposed of. No order as to costs.

Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

06.08.2015
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