

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.29552 of 2014

ORDER:

This writ petition is came to be filed against the order issued by the 4th respondent vide Rc.No.B/5333/2012, dated 13-08-2014 on the allegation that the said order has been passed while deciding the case under Section 145 of the Cr.P.C.

Considering the nature of the order passed by the Mandal Revenue Officer, wherein the Tahsildar had decided the entitlement with respect to the entries in the revenue records this Court was satisfied at the admission stage and passed an interim order. Against the said interim order vacate petition was filed.

Heard Sri M.V. Hanumantha Rao, learned counsel for the petitioner and learned Government Pleader for Revenue.

The learned counsel for the petitioner submits that petitioner came to purchase the land through a sada sale deed on 31-11-2005 and the revenue authorities considering the sada sale deed has mutated the names of the petitioner in the revenue records. When there was an interference by the revenue authorities the petitioner came to file W.P.No.38156 of 2012, wherein this Court directed that the revenue authorities shall not interfere with the petitioner's possession and enjoyment without following due process and like wise the petitioner also filed W.P.No.15068 of 2013 against the police, which also came to be allowed with a direction to the police not to interfere in civil disputes. So that Section 145 of Cr.P.C., proceedings were invoked by the Tahsildar. The petitioner also filed O.S.No.274 of 2013 on the file of the Special Assistant Agent to Magistrate, Mobile Court, Bhadrachalam, Khammam District and injunction was granted against respondent Nos.5 and 6 and the said injunction is subsisting as on today. Learned counsel for the petitioner also submits that respondent Nos.5 and 6 obtained pattedar pass books in their

names based on sada sale deed and further respondent Nos.5 and 6 not being tribal are not entitled to purchase the land and the very same purchase of the said land is null and void.

Learned counsel for the petitioner vehemently contended that by drawing attention to the impugned order the first paragraph wherein Tahsildar had made a reference to Section 145 of Cr.P.C., proceedings submits that while deciding Section 145 of Cr.P.C., proceedings the Tahsildar could not have passed order determining the rights of the parties *vis-a-vis* revenue entries for which there is a separate and independent procedure is contemplated.

On the other hand, learned counsel for the contesting respondents by drawing attention to the order of this Court in earlier proceedings in W.P.No.5250 of 2013 and the order in Crl.R.C.No.1309 of 2013 submits that the Tahsildar was directed to dispose of Section 145 of Cr.P.C., proceedings as well as the proceedings under Section 3 (3) of the A.P. Rights in Land and Pattadar Passbooks Act, 1971 (for short, 'the Act').

Learned counsel for the respondents also submits that pursuant to both the orders of this Court, the Tahsildar had issued notice and based on the material he had passed the order and if the petitioner is aggrieved he has to avail the alternative remedies and now the writ petition questioning the said orders, wherein the rights of the parties have been determined in relation to R.O.R. proceedings is not maintainable. As such prayed for vacation of interim order granted by this Court earlier.

Having considered the rival submissions and a perusal of the order, dated 13-08-2014 leave no manner of doubt and that what all said determined at the end is the rights of the parties in relation to R.O.R. proceedings and the same is indented from the order itself. Apportion of the order reads as under:

"Therefore, proceedings are hereby issued declaring that there is no genuineness in the claim of Maloth Tarachand, S/o.Bhavsing, R/o.Rangapuam, Paloncha Mandal over the lands in Sy.Nos.3/3, 3/4 and 4/5

measuring Ac.8-00 at Rangapuram village and that his claim is totally false and he is disputing with the possession of Ravuri Ravi Kumar and Ravuri Krishna Murthy over the disputed lands in Sy.No.3/3, 4/4 and 4/5 to an extent of Acs.8-00 at Rangapuram village solely basing on the fabricated and forged document dated. 30-11-2005 engrafted on Rs.100/- worth non judicial stamp paper bearing Serial No.3416 (B 425675) purchased from the stamp vendor viz., S. Sambasiva Rao, Eturunagaram village, Warangal District on 30-11-2006. Therefore, it is hereby ordered that the entry pertaining to the name of Maloth Tarachand in the pahani records in respect of the lands in Sy.No.3/3, 4/4 and 4/5 to an extent of Acs.8-00 at Rangapuram is to be deleted and the names of Ravuri Ravikumar and Ravuri Krishnamurthy is to be continued as enjoyers of the above lands.”

The entire reading of the order shows that reference is made under Section 145 of Cr.P.C. The impugned order also equally mentions reference to CrI.R.C.No.1309 of 2013 and further the entire order does not discuss anything in relation to the Cr.P.C. proceedings or of the submissions. Even submissions made by the petitioner *prima facie* only in relation to how about and in what manner the petitioner is entitled to the lands and how the 5th and 6th respondents are not entitled to pertaining to the revenue records of respondent Nos.5 and 6.

In the circumstances, I am satisfied that the order passed by the Tahsildar is only in exercise of the statutory power as conferred under Section 3 (3) of the Act and in obedience to the orders of this Court in writ petition No.38156 of 2012 referred supra. In the circumstances, the interim order granted by this Court stands vacated.

However, the observations made by this Court are only *prima facie* observations. Liberty is given to the petitioner to avail the remedies available under the Act. As and when the petitioner approaches the authorities invoking the appropriate provision of law the same shall be considered un-influenced by any of the observations, which are made *prima facie* for the purpose of disposal of this writ petition. The petitioner is granted two (2) weeks time to approach the appropriate authorities.

With the above directions, the writ petition is disposed of. There shall be no order as to costs. Miscellaneous petitions, if any pending in this writ petition, shall stand closed.

CHALLA KODANDA RAM, J

April 09, 2015

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THE HON’BLE SRI JUSTICE CHALLA KODANDA RAM

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