

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.3696 of 2012

ORDER:

This writ petition is filed stating that the father of the petitioner was a landless poor and in view of his condition, the Government assigned the land to an extent of Ac.5-00 in Sy.No.313/1 situated at Polipalli Village of Bhogapuram Mandal, Vizianagaram District. Accordingly, the revenue authorities issued D-Form patta to the mother of the petitioner on 06-02-1966 and as the said land was not fit for cultivation, she handed over the same to the Government. Again the father of the petitioner made another application and considering the same, the Government assigned land to an extent of Ac.5-00 in favour of his father situated at Polipalli Village. The revenue officials issued D-form pattas in favour of father of the petitioner and on 09-07-1966 possession was also delivered to him. Since then, father of the petitioner was in continuous possession and enjoyment of the said land. During this period, third parties filed O.S.No.178 of 1967 for permanent injunction claiming that he is the owner of the property and the same was dismissed on 15-01-1969, which has become final. The father and mother of the petitioner expired in the year 1993, 2005 respectively leaving behind the petitioner and his three brothers. In

view of will deed executed by father of the petitioner, he came into possession of land to an extent of Ac.5-00 in Sy.No.313/2 and he is enjoying the same without any interruption. The petitioner filed application in the month of October, 2011 to the 3rd respondent for issuance of Adangals and the 3rd respondent directed him to submit all the original documents i.e. pattadar passbook, land ownership title, old pattadar passbooks and adangals stand in the name of his father. Accordingly, the petitioner submitted all original documents pertaining to his land. But the 3rd respondent neither issue adangals nor returned the documents submitted by the petitioner. Aggrieved by the same, the present writ petition is filed.

Counter is filed by the 3rd respondent stating that the petitioner filed application during Revenue Sadassulu conducted from 17-03-2011 to 31-03-2011 stating that his father was granted D-form patta for an extent of Ac.5-00 in Sy.No.313/2 in Polipalli Village of Bhogapuram Mandal, Vizianagaram District. Since the above land is in possession and enjoyment of petitioner, he was granted pattadar passbook and title deed, but physically not issued to him and on thorough search of records, it was found that D-form patta pertaining to D.R.144/73 B3 and in the file, order was found issued by the Board of Revenue, Andhra Pradesh, Hyderabad vide

B.P.Rt.No.3926, dated 20-12-1975 that the patta granted in favour of father of the petitioner was cancelled. It is admitted that the petitioner was granted pattadar passbook and title deed with Khata No.1174 with unique code No.021260131174. It was also stated that since D-form patta issued in favour of the father of the petitioner was also cancelled vide Ref.B3-1615/73, dated 06-01-1975 and accordingly, the pattadar passbook and title deed granted in favour of petitioner was cancelled vide D.Dis.No.2992/2011 A, dated 17-05-2012 by the Revenue Divisional Officer, Vizianagaram. Thus, the petitioner has to challenge the cancellation orders dated 06-01-1975 and sought for dismissal of the writ petition.

Learned counsel for the petitioner submits that no notice was issued before cancelling the pattadar passbook and title deed issued in favour of the petitioner. It is also submitted that on the application submitted by the petitioner, he was granted pattadar passbook and title deed in the year 2011 basing on the will deed executed by his father. He also submits that when patta granted in favour of father of the petitioner was cancelled on 06-01-1975, the petitioner could not have been issued pattadar passbook and title deed.

Learned Assistant Government Pleader, on the other hand, submits that pattadar passbook was issued erroneously in favour of the petitioner and that is the reason why, the same were cancelled.

In this case, the prayer of the petitioner is challenging the action of the respondents in retaining the original documents pertaining to the subject land. But the proceedings placed before this Court dated 17-05-2012 goes to show that pattadar passbook and title deed were cancelled and even the patta, basing on which pattadar passbook was issued to the petitioner was also cancelled. The proceedings dated 20-12-1975 pertaining to file DR.No.144/75B, under which D-form patta issued to the father of the petitioner was cancelled. Though it is contended that both proceedings were issued without notice, when once the pattadar passbooks were cancelled, unless the said proceedings are challenged, no relief can be granted.

In view of the same, I do not see any reason to accept the prayer of the petitioner. However, it is open for the petitioner to challenge the proceedings, under which pattadar passbook issued in favour of the petitioner and patta granted in favour of his father were cancelled vide proceedings dated 20-12-1975.

Subject to above, this writ petition is dismissed. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

07-11-2016
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