

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.27365 of 2011

ORDER:

Heard the learned counsel for the petitioner, Smt.Sharada Katakam, learned counsel for 15th respondent and Sri P.Venkata Reddy, learned counsel for 16th respondent. Learned Government Pleader for Revenue is absent both in the morning session and in the afternoon session. Therefore, taking into consideration the counter affidavit filed by 2nd respondent, the matter is being disposed of.

2. Petitioner contends that in a suit for partition O.S.No.219 of 1982 filed by one C.J.Syam Sunder against Sri C.D.Jairam Mudaliar and others, where defendant Nos.8 to 14 were added as legal representatives of the 1st defendant C.D.Jairam Mudaliar, a preliminary decree was passed on 02-07-1994 dividing the shares of the parties to the suit; subsequently final decree dt.08-09-2008 in I.A.No.3833 of 2007 was passed by the III Additional Chief Judge, City Civil Courts, Hyderabad allotting an extent of Ac.2.00 cts forming full Sy. No.1011 and part of Sy. No.1012 of Ameenpur village, Patancheru Mandal, Medak District to the petitioner along with Smt.T.Usha Rani and Smt. Meera (respondent Nos.14 and 15); possession of the property was delivered on 25-05-2009 in E.P.No.81 of 2008; there

was a division among herself, T.U sha Rani and Smt. Meera under which above property was given to her; that she applied to 2nd respondent for mutation of her name in the revenue records, but 2nd respondent did not do anything and ultimately issued a letter dt.26-10-2010 stating that Ac.6.00 cts of land in Sy. Nos.1007/P, 1010 part, 1011 and 1012 of Ameenpur village was the subject matter of a case in the High Court and after determination of the same only, mutation would be effected in the name of the petitioner and respondent Nos.14 and 15. She contends that this inaction on the part of the 2nd respondent is arbitrary, illegal and violative of the provisions of the A.P. Rights in Land and Pattedar Passbooks Act, 1971.

3. The 2nd respondent filed a counter stating that the petitioner had given an application for transfer of patta to an extent of Ac.6.00 cts of land in Sy. Nos.1007/P, 1010/P, 1011 and 1012 of Ameenpur village in her favour as well as in favour of respondent Nos.14 and 15. Basing on the final decree dt.08-04-2008 in I.A.No.3833 of 2007 passed by the III Additional District Judge, City Civil Courts, Hyderabad, she requested for implementing the same in the revenue records; that G.O.Ms.No.1077 Rev. (Assn.-IV) Department dt.07-08-2007 was issued by the then Government of Andhra Pradesh and these lands were taken over by the Person-in-Charge i.e. District Revenue Officer, Medak at Sangareddy on

04-10-2007, and the lands were declared under dispute; and that the 2nd respondent had not in fact refused to mutate the lands in her name but only informed the petitioner that a case was pending so that she can take necessary steps.

4. It is not in dispute that by a common order dt.21-02-2014 in W.P.No.19673 of 2006, G.O.Ms.No.1077 dt.07-08-2007 was set aside on the ground that dispute relating to patta lands could not have been subject matter of the said G.O. and that it related, if at all, only to sale of the Government land in Medak District.

5. This fact is not disputed by the respondent Nos.1 to 3 and it is not the case of the respondent Nos.1 to 3 that the land for which mutation was sought by the petitioner was Government land. Therefore on the ground that the lands in respect of which mutation was sought by the petitioner as per the provisions of the Act are subject matter of G.O.Ms.No.1077 dt.07-08-2007, it was not open to the 2nd respondent to refuse mutation.

6. However, it is alleged by the petitioner that the 16th respondent in the Writ Petition had laid a road through the part of the land in Sy. Nos.1010 and 1007 which was allotted to the petitioner and also erected electric pole without any legal entitlement.

7. In the counter affidavit filed by 16th

respondent, this allegation is specifically denied. The 16th respondent stated that it is no way concerned with the laying of the road and the road had been sanctioned by the District Collector (Planning), Sangareddy by proceeding dt.20-11-2010 and the road work was executed by the Executive Engineer, Panchayat Raj, Sangareddy by utilizing the funds sanctioned under CDP for the year 2010-11 through the local MLA. It is contended that the Executive Engineer, Panchayat Raj, Sangareddy is not arrayed as party to the Writ petition and that he is necessary and proper party.

8. Thus, there is a dispute between the petitioner, 16th respondent and the State of Telangana as to entitlement to the land covered by the road which cannot be adjudicated in these proceedings. Therefore, the petitioner is given liberty to approach the competent forum to prove her entitlement to the land covered by the road against the appropriate party.

9. However, as regards the entitlement of the petitioner to the land in Sy. No.1010, 1007 to the extent which is allotted to her in the final decree proceedings in O.S.No.219 of 1982 (other than the land covered by the road mentioned above), since there is no dispute or claim raised by any third party, 2nd respondent shall cause a survey to be made and mutate the area, excluding the area covered by the road in the said survey numbers, in

favour of the petitioner, after giving notice to all the affected parties. For the area covered by the road, after the decision of a competent forum about its ownership and possession, appropriate mutation proceedings can be initiated by 2nd respondent.

10. Accordingly, the Writ Petition is disposed of with the above direction. No costs.

11. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 29-06-2016

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