

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.19387 OF 2011

ORDER :

Petitioner in this Writ Petition has assailed the proceedings D.Dis.365/2011, dt.30.05.2011 passed by the 4th respondent.

2. The subject matter of this litigation is land of an extent of Ac.0-44 cents in survey No.64/2 and Ac.1-22 cents in survey No.65 of Pellakuru Village and Mandal, SPSR Nellore District.

3. Petitioner claims to have purchased the above lands from one Sale Rajaratnam through an unregistered sale deed dt.18.12.1989 for a valid consideration. According to the petitioner, his vendor purchased the same under an unregistered sale deed on 27.06.1983 from Korrapati Venkatasubba Naidu and two others. Petitioner contends that after purchase on 18.12.1989, his name was mutated in the revenue records and he was paying the land revenue till 2005.

4. However, when the petitioner approached the 4th respondent for issuance of Pattadar Passbook and Title Deed in respect of the subject land, it was not granted to him.

5. Petitioner contends that the 5th respondent obtained a registered sale deed from one Korrapati Seshama Naidu on 28.12.2005 and that 5th respondent's vendor, Korrapati

Seshama Naidu had no right, title or interest in the subject land, since there was already a sale in favour of Sale Rajarathnam in 1983 under an unregistered sale deed.

6. It is not in dispute that the 4th respondent had entered the name of the 5th respondent in the revenue records and issued Pattadar Passbook and Title Deed to him in proceedings Rc.B.943/2005, dt.16.11.2006.

7. Contending that this was done by the 4th respondent without the petitioner's knowledge, petitioner preferred an appeal to the 3rd respondent.

8. The 3rd respondent passed order dt.06.08.2007 in Rc.No.B2/4004/2006 setting aside the order passed by the 4th respondent. He held that the issuance of Pattadar Passbook and Title Deed to the 5th respondent was done without conducting any enquiry and he recommended to the District Collector, to cancel the Pattadar Passbook and Title Deed issued to the 5th respondent.

9. In view of the recommendation of the 3rd respondent, 2nd respondent took up the matter for enquiry under Section 9 of the A.P. Rights in land and Pattadar Pass Books Act, 1971 and ordered cancellation of Pattadar Passbook and Title Deed issued in favour of the 5th

respondent and directed the 4th respondent to implement the orders in the village records and report compliance.

10. The 5th respondent then questioned it in W.P.No.23720 of 2009 before this Court.

11. By order dt.04.11.2009 this Court dismissed the said Writ Petition but granted liberty to the 5th respondent to again approach the 4th respondent by filing a fresh application seeking alteration of entries in revenue records and directed the 4th respondent to consider the same.

12. Thereafter, the 5th respondent approached the 4th respondent on 28.12.2009 enclosing a copy of the sale deed dt.29.12.2005 obtained by him from Korrapati Seshama Naidu S/o Korrapati Venkatasubba Naidu.

13. Notices were issued to the petitioner. The petitioner contended before the 4th respondent that he obtained unregistered sale deed from Sale Rajarathnam on 18.12.1989 and his vendor had obtained an unregistered sale deed on 17.06.1983 from Korrapati Venkatasubba Naidu (*father of the vendor of the 5th respondent*) and two others.

14. The 4th respondent observed that as per 10(1) account, the name of Sri Korrapati Venkatasubba Naidu was registered as pattadar; that the 5th respondent had obtained registered

sale deed on 29.12.2005; that the petitioner has not been able to produce any document of title relating to the subject land; that an enquiry was conducted which disclosed that the possession of the subject land is with the 5th respondent; and therefore the name of the 5th respondent was rightly incorporated in the revenue records and Pattadar Passbook and Title Deeds were rightly issued to him.

15. Petitioner questioned the same by filing an appeal before the 3rd respondent. However, before filing the said appeal, he filed the present Writ Petition questioning the order dt.30.05.2012 of the 4th respondent.

16. On 13.07.2012 this Court granted suspension of the impugned order.

17. The 5th respondent filed W.V.MP.No.3823 of 2011 seeking to vacate the said order.

18. Counsel for the petitioner contends that the petitioner had superior title, that the vendor of the 5th respondent had no title to convey to the 5th respondent under registered sale deed dt.28.12.2005 and the 4th respondent erred in directing mutation of the name of the 5th respondent in the revenue records in the place of the petitioner.

19. But the counsel for the petitioner did not dispute the fact

that the appeal filed by the petitioner before the 3rd respondent was rejected, vide Rc.B2/2409/2011 dt.19.08.2011, on the ground that the present Writ Petition is pending before this court.

20. Counsel for the 5th respondent, however, contended that the documents on which the petitioner is placing reliance are only unregistered sale deeds and no title can be conveyed under the said document. He further contended that the petitioner is repeatedly interfering with his possession and enjoyment of the subject lands and filing proceedings under the provisions of SCs & STs (Prevention of Atrocities) Act, 1989 taking advantage of the earlier orders passed by the Joint Collector on 30.09.2009 and the order in W.P.No.23720 of 2009 dt.04.11.2009.

21. I have noted the submissions of both sides.

22. From the above facts, it is clear that the petitioner had already availed the remedy of appeal before the 3rd respondent and the same was rejected on the ground that the present Writ Petition is pending.

23. However in view of the chequered career of the litigation between the parties, at this stage, I do not deem it appropriate to remand the matter back to the 4th respondent.

24. Petitioner is claiming interest in the subject property only

on the basis of unregistered sale deeds while the 5th respondent has a registered sale deed from the son of
Korrapati Venkatasubba Naidu, who, even the petitioner accepts to be the real owner of the subject property.

25. It is settled law that title to the property does not pass under unregistered documents.

26. Since the 5th respondent has a registered sale deed from the son of the original owner, Korrapati Venkatasubba Naidu, and since the sale deed allegedly executed by the said person in favour of Sale Rajarathnam on 27.06.1983 and the subsequent sale deed allegedly executed by the said Sale Rajarathnam in favour of the petitioner on 18.12.1989 are unregistered sale deeds, petitioner cannot be said to have any right, title or interest in the subject land. I am of the opinion that the 4th respondent had rightly mutated the name of the 5th respondent in the revenue records in respect of the subject land by deleting the name of the petitioner therein.

27. Therefore, I do not find any merits in this Writ Petition and it is accordingly dismissed. There shall be no order as to costs.

28. Consequently, miscellaneous petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

15th June, 2016

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