

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

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WRIT PETITION No.10047 OF 2005

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, 1949 is filed by the petitioners challenging the proceedings issued by the 1st respondent in D.Dis.H6/24/2003, dated 08.02.2005 and quash the same by issuing a writ of *certiorari*.

The case of the petitioners, in brief, is that they became owners of the disputed property being the legatees under will dated 17.09.1985, executed by husband of the 4th respondent, who is no other than their paternal uncle's son. The 4th respondent disputed the will and, thereby, the petitioners filed O.S. No.17 of 1998 for declaration of title and other consequential rights, on the file of the Court of Senior Civil Judge, Piler. One B.Y. Narasimha Reddy filed O.S. No.33 of 1996 on the file of the Court of Senior Civil Judge, Piler against T. Rami Reddy for specific performance of agreement of sale dated 21.01.1982. During pendency of O.S. No.33 of 1996, Rami Reddy executed a gift deed in favour of husband of the 4th respondent, the husband of the 4th respondent filed O.S. No.114 of 1996 on the file of the Court of Senior Civil Judge, Piler, against B.Y. Narasimha Reddy seeking permanent injunction; while so, the husband of 4th respondent died and his wife, 4th respondent herein, and daughter were brought on record as his legal heirs. Unless the rights of the parties are decided by a competent civil Court, Revenue authorities are not competent to issue title deeds; therefore, prayed to set-aside the impugned order dated 08.02.2005 passed by the 1st respondent.

During course of hearing, Sri R. Ramachandra Reddy, learned counsel for the petitioners, would contend that all the above suits were

dismissed but only the petitioners preferred Appeal Suit No.28 of 2003, against dismissal of O.S. No.17 of 1998, on the file of the Court of II Additional District Judge, Madanapalle and the same is pending to their knowledge.

Learned counsel for the petitioners has drawn the attention of this Court to Section 8(2) of the A.P. Rights in land and Pattadar Pass Books Act, 1971 (for short, 'the Act') to support his contention that the order passed by the 1st respondent is not legal.

Undoubtedly, the petitioners and 4th respondent set-up rival claims based on the will and other documents but the 1st respondent issued Pattadar pass book and title deed in favour of 4th respondent by issuing the impugned order under challenge. According to Section 8(2) of the Act, if any person is aggrieved as to any rights of which he is in possession by an entry made in any record of rights, he may institute a suit against any person denying or interested to deny his title to such right for declaration of his right under Chapter VI of the Specific Relief Act, 1963 (Central Act 47 of 1963) and the entry in the record of rights shall be amended in accordance with any such declaration.

In view of Section 8(2) of the Act recognized right of person in possession by the entries made in the record of rights and provides a remedy whenever his title is infringed. Even before issuing the impugned proceedings under challenge, the petitioners filed O.S. No.17 of 1998 seeking declaration of title to the property; of course it was dismissed and the appeal preferred thereon is pending. Therefore, the petitioners rightly approached the civil Court under Sections 34 and 5 of the Specific Relief Act, 1963 to declare the title to the property but lost their claim in the trial Court and agitating the same before the appellate Court. In those circumstances, this Court cannot pass any order setting-aside the proceedings under challenge except

directing the 1st respondent to make necessary entries in the relevant records and issue title deed and record of rights in the event the petitioners succeed in the Appeal and obtain a decree declaring the title to the property.

Accordingly, with the above direction, the Writ Petition is disposed.

In consequence, miscellaneous petitions, if any, pending in this writ petition, shall stand closed. No order as to costs.

**M. SATYANARAYANA MURTHY,
J**

Date: 11-03-2016.
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