

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.40639 OF 2012

ORDER :

The case of the petitioner is that he is the owner and possessor of agricultural land to an extent of Ac.20-20 gts., in Sy.No.367 situated at Madikonda Village, Hanmakonda Mandal, Warangal District having purchased the same from its original pattadar and owner Sri Ravula Jagan Mohan Reddy under an agreement of sale dated 24.01.1996 for valuable consideration. Subsequent to the said agreement, Ravula Srinivas Reddy, S/o late Ravula Jagan Mohan Reddy executed a registered sale deed in favour of the petitioner in the year 2007 and petitioner has been in continuous possession and enjoyment of the said land. In the part of the said land, the petitioner planted mango garden and remaining is used as pasture land. As there was interference from the 4th respondent in respect of the subject property, the petitioner filed a suit for perpetual injunction in O.S.No.608 of 2007 on the file of the Principal Junior Civil Judge, Warangal. The trial Court dismissed the interlocutory application of the petitioner. Against the same, the petitioner preferred C.M.A.No.36 of 2007 and the same was allowed. Against the same, the 4th respondent filed CRP No.5923 of 2003 and this Court allowed the same by order dated 25.11.2008, Aggrieved by the grant of pattadar passbook and title deed in favour of the 4th respondent vide proceedings No.B2/711/02, dated 03.05.2003 and on the ground of not issuing notice to the legal heirs of the R.Seetharami Reddy, the petitioner filed an appeal dated 15.09.2008 which was

allowed. Against the same, the 4th respondent filed Revision before the 1st respondent and the same was allowed vide order dated 13.12.2012. Aggrieved by the same, the present writ petition is filed.

Learned senior counsel Sri D.Prakash Reddy appearing for the petitioner submits that the 2nd respondent allowed the appeal filed by the petitioner on the ground that the Mandal Revenue Officer failed to issue notices to the persons who are recorded as occupants and the Revisional authority without going into the said aspect allowed the Revision erroneously. He also submits that under Rule 22(3) of the Andhra Pradesh Rights in Land and Pattadar Pass Books Rules, 1971 (for short 'the Rules') notice is required to be issued to the alienor or transferor. He further submits that the so called sale deed relied on by the 4th respondent dated 26.01.1979 said to have been executed by the R.Seetharami Reddy, was presented for the validation in the year 2003, by that time, R.Seetharami Reddy passed away. As such, Ravula Jagan Mohan Reddy who is legal heir of the vendor of the petitioner is entitled for notice as per Rule 22(3) of the Rules and since no such notice is issued, the same is in violation of principles of natural justice.

On the other hand, learned Assistant Government Pleader for Revenue basing on the record submits that the records do not disclose that R.Jagan Mohan Reddy was issued any notice. He submits that in view of the disputed questions of facts, petitioner can approach the Civil Court under Section 8(2) of the Act for

appropriate relief. He further submits that since the civil suit is pending, revenue authorities cannot decide the issue.

Learned counsel for the 4th respondent Sri Srinivas Rao Bodduluri submits that when once there are serious disputed question of title, the revenue authorities cannot decide the issue. He also submits that the petitioner filed interlocutory application for injunction and the said application was dismissed holding that petitioner is not in possession of the subject property and the trial Court commented on the documents presented by the petitioner, as there is a cloud in the title of the petitioner. As such, the revenue authorities cannot go into the serious disputed question of title under the provisions of the Act. He also submits that the petitioner has taken contrary plea in the appeal stating that the pattadar passbooks cannot be issued to the non-agricultural lands whereas in the writ affidavit it is stated that the petitioner has raised mango garden in the part of the subject land. The statements made by him are self contradictory in nature. In support of his contentions he relied on judgment reported in ***Indukuru Ramachandra Reddy and another v. Agnigundala Venkata Ranga Rao and another***¹ and ***V.Goutham Rao v. Revenue Divisional Officer, Jagtial, Karimnagar District and another***².

He further submits that the civil suit filed by the petitioner is pending and until the same is decided, the revenue authorities cannot decide the issue and that the petitioner have to wait till disposal of the civil suit filed by him in O.S.No.608 of 2007.

¹ 2012 (6) ALD 195

² 2003 (1) ALD 681

A perusal of the record goes to show that an appeal under Section 5-B of the Act is filed by the petitioner against the proceedings dated 03.05.2003 issued by the 3rd respondent granting pattadar passbooks and title deed in favour of the 4th respondent and the same was allowed mainly on the ground that no notice was served on the persons who are recorded as occupants in the revenue records and the appellate⁴ authority clearly found that no opportunity of being heard was given to all interested persons. Only on the ground of non-issuance of notice to R.Jagan Mohan Reddy, the proceedings were set aside. The Revisional authority has not gone into that aspect and no finding was also recorded whether notice was issued to the interested persons. Even the Civil Court while dismissing the injunction petition filed by the petitioner in I.A.No.1279 of 2007 held that Civil Court could not go into the said aspect as the same is pending before the authorities. The Civil court was only dealing with the possession and basing on the documents filed by the 4th respondent, injunction petition filed by the petitioner was dismissed. Now, the issue that has to be considered is whether notice was served on R.Jagan Mohan Reddy from whom the petitioner has purchased. Admittedly, R.Jagan Mohan Reddy is the son of R.Seetharami Reddy from whom the 4th respondent alleged to have purchased the subject property and by the time of issuance of proceedings dated 03.05.2003, R.Seetharami Reddy is no more and name of Ravula Jagan Mohan Reddy is found in revenue records. Rule 22 (3) of the Andhra Pradesh Rights in

Land and Pattadar Pass Books Rules, 1989 (for short 'the Rules') reads as follows:

“On receipt of the application under sub-section (2) of Section 5-A of the Act, the Mandal Revenue Officer shall issue notice to the alienor or transferor in Form No.XI specifying therein the date on which and the time at which he proposes to enquire into the application. He shall also cause to issue notice in Form No.XII to all other persons believed to be interested in the land specifying therein, date, time and place at which he proposes to enquire into the application. Only unregistered documents shall be considered under Section 5-A of the Act.”

In view of the Rule 22(3) of the Rules, unless the notice is issued to the alienor or his legal representatives no validation of sale can take place. That aspect was not considered by the Revisional authority.

No doubt, when there are serious title disputes, the Revenue authorities cannot decide the issue as per the judgments reported in ***Indukuru Ramachandra Reddy and another v. Agnigundala Venkata Ranga Rao and another***³ and ***V.Goutham Rao v. Revenue Divisional Officer, Jagtial, Karimnagar District and another***⁴ but in the present case, suit is only for simple injunction and Civil Court already observed that it is for authorities to decide the validity of pass books and title issued in favour of the 4th respondent.

Since, no notice was issued to the alienor or legal representatives, when validation took place and since the same is contrary to Rule 22(3) of the Rules, 2nd respondent rightly allowed appeal vide proceedings dated 15.09.2008 setting aside validation

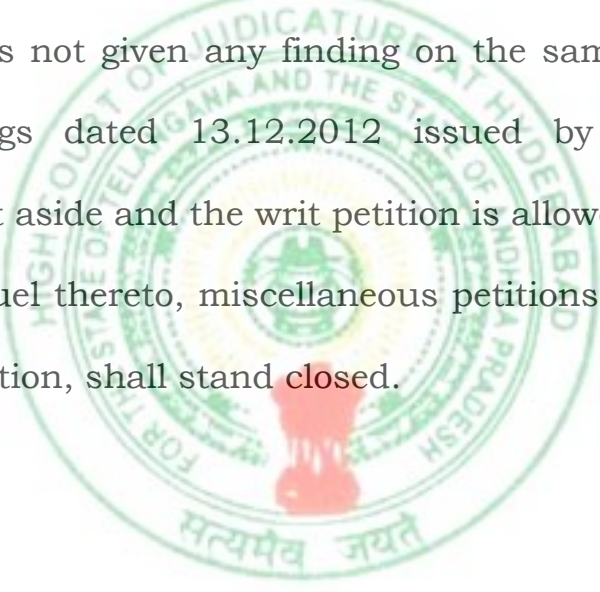
³ 2012 (6) ALD 195

⁴ 2003 (1) ALD 681

proceedings. But 1st respondent without going into that aspect allowed revision filed against the same vide proceedings dated 13.12.2012, as such the same is liable to be set aside. The 1st respondent by observing that 4th respondent's purchase is earlier to purchase made by writ petitioners, allowed revision but fact remains that the 4th respondent alleges that he purchased through simple sale deed dated 25.01.1979, but whereas petitioner purchased through registered sale deed. Unless it is validated by following procedure, it cannot confer title.

Though limitation aspect is raised about filing of revision, the 1st respondent has not given any finding on the same. Accordingly, the proceedings dated 13.12.2012 issued by the Revisional authority is set aside and the writ petition is allowed. No costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.



A.RAJASHEKER REDDY, J

08.11.2016

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