

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITON No.17837 OF 2008

ORDER:

The case of the petitioner is that he is the owner and possessor of agricultural land to an extent of Ac.06-00 guntas in Sy.No.112/A/2 of Edunoothula Village, Kodakandla Mandal, Warangal District by virtue of simple sale deed and the petitioner got electricity connection. When the petitioner was cultivating the said land, the 4th respondent along with others tried to interfere with his possession, the petitioner filed O.S.No.152 of 2005 on the file of Junior Civil Judge, Janagoan and obtained injunction in I.A.No.319 of 2005 on 25-08-2015 and said interim order was made absolute. When the matter stood thus, the name of the 4th respondent is incorporated in respect of Ac.3-00 guntas of land. The petitioner filed application on 20-05-2006 for rectification of revenue records and the 2nd respondent had taken up the matter and passed order directing the 3rd respondent to rectify the revenue records by incorporating the name of the 4th respondent and also issued direction to file application before the Joint Collector for cancellation of pattadar passbook and

title deeds by order dated 09-05-2008. Aggrieved by the same, the present writ petition is filed.

Counter affidavit is filed by the 4th respondent denying that the petitioner purchased the subject land through simple sale deed on 10-02-1962. It is submitted that the said property is the ancestral property of husband of the 4th respondent and by virtue of family settlement and partition, her husband got the same towards his share. After death of her husband, the 4th respondent has become owner and possessor and even the children of original pattadar D.Venkatram Narsaiah has also deposed during enquiry before the 2nd respondent that their father has not sold the land to the petitioner. It is further stated that O.S.No.152 of 2005 filed by the petitioner was transferred to the Court of Junior Civil Judge, Thorrur and re-numbered as O.S.No.326 of 2008 and said suit ended in dismissal and I.A.No.285 of 2012 is filed seeking condonation of delay for filing restoration petition. The learned Junior Civil Judge, Thorrur, dismissed the said application on 30-09-2013. Thereafter, the petitioner filed CRP.No.4746 of 2013 before this Court against the said order and the same was also dismissed on 05-09-2014.

Heard learned counsel for the petitioner, who reiterated the averments in the writ affidavit.

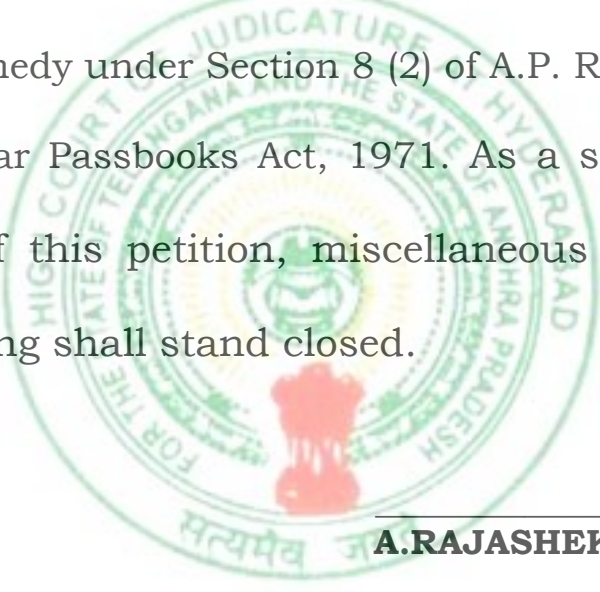
Learned counsel for the 4th respondent submits that the petitioner has suppressed the fact that the 4th respondent is none other than the wife of his brother and on that sole ground, the petition is liable to be dismissed. He submits that the subject land is the joint family property and after the death of her husband, the 4th respondent is entitled to half share in the said property. As such, the name of 4th respondent is entered in revenue records and no interference is called for in the impugned order. He further submits that if the petitioner is aggrieved, he has alternative remedy to file suit for declaration of title.

Learned Assistant Government Pleader for Revenue also submits that the petitioner has alternative remedy against the impugned order by way of filing appeal before the Commissioner of Appeals.

Now it is to be seen that the 4th respondent is none other than the wife of petitioner's brother and the same is not is not denied by the petitioner. Even the civil suit filed by the petitioner for *simplicitor* injunction is dismissed. A perusal of the impugned order goes to show that enquiry was conducted and the petitioner has not

participated in the same. The so-called sale deed under which the petitioner purchased the subject land is not validated and there appears to be serious disputed questions of fact regarding entitlement of the subject land. In view of the same, I feel that these aspects cannot be decided by exercising power under Article 226 of Constitution of India.

Accordingly, the writ petition is dismissed. However, this will not preclude the petitioner from availing remedy under Section 8 (2) of A.P. Rights in Land and Pattadar Passbooks Act, 1971. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.



A.RAJASHEKER REDDY,J

25-10-2016
Nvl



