

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No.11127 OF 2010

ORDER:

This Writ Petition is filed seeking to declare the order, dated 15.03.2010, in Ref.C/1069/2008 passed by respondent No.2, as illegal and contrary to law.

2. The case of the petitioner is that she is the owner of land admeasuring Ac.1-97 cents in Survey No.273 of K.Nayakampalli Village, Gandepalli Mandal, East Godavari District, by virtue of Settlement Deed, dated 23.12.2006, executed by her father in her favour. The father of the petitioner acquired the said property by virtue of Will Deed, dated 10.07.2006, executed by his father. The petitioner was also issued pattadar pass book and title deed and her name was also mutated in the revenue records and she is in possession of the subject land. While the things stood thus, respondent No.4 filed an appeal under Section 5-B of the A.P. Rights in Land and Pattadar Pass Books Act, 1971 (for short, 'the Act'), before respondent No.2 contending that the Will Deed, dated 10.07.2016, is forged one and the alleged Settlement Deed, dated 23.12.2006, executed in favour of petitioner is void, and claimed right over the subject land on the basis of Will Deed, dated 04.08.2006. Respondent No.2 basing on the contentions raised by respondent No.4, by impugned order, dated 15.03.2010, cancelled the mutation done and pattadar pass book and

title deed issued in favour of the petitioner. Questioning the same, the present Writ Petition is filed.

3. This Court, by order, dated 12.05.2010, while admitting the Writ Petition, granted *status quo*. Counters and vacate petitions are filed by respondent Nos.1 to 4.

4. In the counter filed by respondent Nos.1 to 3, it is stated that the Tahsildar, Gandepalli, issued pattadar pass book and title deed in respect of the subject land in favour of the petitioner basing on the Settlement Deed, dated 23.12.2006, executed by her father in her favour. It is also stated that the basis for the above transaction, is a Will Deed, dated 10.07.2006, purported to have been executed by one Bapiraju in favour of father of the petitioner. It is also stated that proper procedure was not followed by the Tahsildar before mutating and issuing pattadar pass book and title deed to the petitioner as contemplated under the Act, and as such, the same were cancelled. It is also stated that the Revenue Divisional Officer has no jurisdiction to enquire and declare the veracity or otherwise of the documents and the parties were advised to approach the civil Court. It is also stated that the petitioner has alternative remedy of revision under Section 9 of the Act before the Joint Collector.

5. In the counter filed by respondent No.4, it is stated that she is the daughter-in-law and also grand daughter of Malireddy Bapiraju

and that Malireddy Bapiraju, out of love and affection, executed a Will Deed, dated 04.08.2006, in her favour in respect of the subject land and she used to collect the amounts towards lease from the tenant, to whom the subject land was given on lease by her father-in-law. It is also stated that the petitioner's father after coming to know about the execution of Will Deed, dated 04.08.2006, in her favour got forged and fabricated Will Deed, dated 10.07.2006, as if Malireddy Bapiraju executed a Will in his favour and immediately, he executed a registered Gift Deed, dated 23.12.2006, in favour of his daughter, who is the petitioner herein, and got mutated her name. It is also stated that after coming to know about the same, she filed an appeal before respondent No.2 for cancellation of pattadar pass book and title deed issued in favour of the petitioner and though several opportunities were given to the petitioner, since she has not entered appearance, respondent No.2 basing on the material available on record, passed the impugned order. It is stated that the petitioner's father is not in possession of the subject land and that the genuineness and execution of Wills can only be proved before a civil Court by adducing evidence in a regular trial and as such, the impugned order is legal and valid. It is also stated that the petitioner without approaching the civil Court, as directed in the impugned order, or availing the alternative remedy of revision under Section 9 of the Act, straightaway filed the present Writ Petition and hence, prays to dismiss the Writ Petition.

6. Heard learned counsel for the petitioner, learned Assistant Government Pleader for Revenue and learned counsel for respondent No.4.

7. Learned counsel for the petitioner by relying on the Division Bench judgment of this Court in **Ratnamma v. Revenue Divisional Officer, Dharmavaram, Anantapur District, and others**¹, contended that respondent No.2 has no power to cancel the pattadar pass book and title deed.

8. On the other hand, learned counsel for respondent No.4 submits that an application was made by respondent No.4 before respondent No.3 for rectification of entries and cancellation of pattadar pass books and title deeds issued in favour of the petitioner, and respondent No.3, by order, dated 17.11.2007, held that the validity of Wills cannot be decided by the revenue authorities and directed the parties to approach the civil Court and as such, the impugned order, to the extent of rectification of entries, can be sustained.

9. From the above pleadings of the parties, it appears that the petitioner is claiming right over the subject land through Settlement Deed, dated 23.12.2006, executed in her favour by her father,

¹ 2015 (6) ALD 609 (DB)

pursuant to the Will Deed, dated 10.07.2006, executed in favour of her father by her grand father, whereas, respondent No.4 is claiming through Will Deed, dated 04.08.2006, executed by the very same person, Malireddy Bapiraju. It also appears that when an application is filed by respondent No.4 before respondent No.3 seeking rectification of entries and cancellation of pattadar pass book and title deeds issued in favour of the petitioner, respondent No.3 passed order, dated 17.11.2007, stating that the validity of the Wills cannot be decided by the revenue authorities and directed the parties to approach the civil Court and on an appeal filed by respondent No.4, respondent No.2 passed impugned order, dated 15.03.2010, cancelling the pattadar pass book and title deed issued in favour of the petitioner, which is being assailed in the present Writ Petition.

10. It is to be seen that by the impugned order, respondent No.2, while cancelling the pattadar pass book and title deed issued in favour of the petitioner, directed the parties to approach the civil Court having competent jurisdiction. In this case, as the dispute is with regard to validity of the Wills, respondent No.2 has rightly held that the parties have to approach the civil Court. The same cannot be found fault with. In that view of the matter, once the entries basing on the disputed Wills cannot sustain, the consequential pattadar pass book and title deed also cannot be held to be valid, unless the validity of the Wills executed by the original pattadar is decided. In view of

the same, I do not see any error in the impugned order passed by respondent No.2. It is for the petitioner and respondent No.4 to approach the civil Court and obtain appropriate relief under Section 8 of the Act.

11. Accordingly, the Writ Petition is disposed of. Miscellaneous Petitions, if any, pending in this Writ Petition, shall stand closed. There shall be no order as to costs.

November 02, 2016.
MD

A. RAJASHEKER REDDY, J



THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY



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MD