

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.17990 OF 2003

ORDER:

This writ petition is filed challenging the order dated 12.08.2003, passed by the 1st respondent in proceedings No.F2/JC/ROR/18/2001, wherein the 1st respondent allowed the revision filed by the 4th respondent under Section 9 of the A.P.Rights in Land and Pattedar Pass Books Act, 1971 setting aside the orders dated 30.09.2000 passed by the 2nd respondent and also the 13-B certificate issued by the 3rd respondent in favour of the petitioner.

The case of the petitioner is that one Devidas Benjiman who was an ex-serviceman was allotted agricultural land admeasuring Ac.5.00 guntas in Survey No.57, situated at Kethapally village in the year 1968 and was in continuous possession till 1982 and in the year 1982 the said Devidas Benjiman had sold an extent of Ac.4.20 guntas to the petitioner under sada sale deed dated 04.04.1982 for a consideration of Rs.10,000/-. Thereafter, in the year 1989 the petitioner submitted an application to the 3rd respondent for validation of his sale transaction and in pursuance of the same the 3rd respondent after conducting detailed enquiry and after making necessary publication and recording the statement of witnesses had issued a certificate to the petitioner in Form 13-B under Section 5-A (4) & Rule 22(5)(ii) on 09.07.1992 and also issued pattedar pass books and title deeds to the petitioner by effecting the mutation in the revenue records. While

so, the 4th respondent in the year 1996 filed appeal before the 2nd respondent challenging the certificate issued in favour of the petitioner in Form 13-B, on the ground that the said land belongs to her father Devidas Benjiman and her father had not sold the said lands to any one. In pursuance of the same the 2nd respondent after issuing notices to all parties and calling for records and report from the 3rd respondent confirmed the orders of the 3rd respondent by passing a well reasoned order. Against the same the 4th respondent preferred a revision before the 1st respondent and the 1st respondent without proper appreciation of facts and material on record had allowed the revision. Aggrieved by the same, present writ petition is filed.

This Court on 28.08.2003 while admitting the writ petition passed interim order which reads as follows;

“Prima facie, a reading of the impugned order discloses that the Joint Collector had set aside the certificate issued to the petitioner under Section 13-B of the A.P. Records of Rights in Land in Pattedar Pass Books Act on the basis of certain surmises. In fact, he has undertaken adjudication into the title, which the revenue Divisional Officer had left it to be adjudicated by appropriate Court of law. Hence, there shall be interim suspension as prayed for.”

Heard learned counsel for the petitioner and learned Assistant Government Pleader for Revenue.

Though notice is issued to the 4th respondent, there is no appearance for the 4th respondent.

Learned counsel for the petitioner submits that the validation in favour of petitioner is only to the extent of Ac.4.20 guntas but, whereas the 1st respondent in the impugned order observed that when the petitioner has purchased the entire extent of assigned land admeasuring Ac.5.00, how the said Devidas Benjiman sold an extent of Ac.0.20 guntas to one Jatangi Galaiah (2nd respondent in the impugned order). Learned counsel further stated that the 1st respondent erred in coming to a conclusion with regard to the designation mentioned to the signature of the scribe of the document one Gouraiah as 'Mandal Praja Parishad', which is actually appended as 'Maaji Police Patel'.

Heard learned Assistant Government Pleader for Revenue.

It is to be seen that the certificate issued by the 3rd respondent in Form 13-B goes to show that the same was issued in respect of the land to an extent of Ac.4.20 guntas in Survey No.657 and the claim of the writ petitioner in the writ petition is that he purchased Ac.4.20 guntas only. It is not known how the 1st respondent observed that the petitioner herein purchased Ac.5.00. As such, the said finding of the 1st respondent is without any basis. Even with regard to designation of the scribe in the document it is mentioned as MPP, but it is not known how the 1st respondent came to a conclusion that MPP means Manda Praja Parishad, without any material. The other aspect is validation was done in the year 09.07.1992 and the appeal was filed in the year 1996. The RDO dismissed the appeal holding that the appeal was filed after a gap of four years. The said aspect was also not

considered and explained in the grounds of revision filed by the 4th respondent. The delay in filing the appeal was also not explained by the 4th respondent. In view of the same, the impugned order is liable to be set aside.

Accordingly, the writ petition is allowed and the order dated 12.08.2003, passed by the 1st respondent in proceedings No.F2/JC/ROR/18/2001 is set aside. However, this will not preclude the 4th respondent from agitating his rights under Section 8(2) of the A.P.Rights in Land and Pattadar Pass Books Act, 1971. No order as to costs.

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

17.11.2016
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A.RAJASHEKER REDDY, J

