

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 20214 of 2016

ORDER:

1) Heard learned counsel for the petitioners, Government Pleader for Revenue and Sri B.Sudhakar Reddy and Neeraja Reddy, learned counsels appearing for un-official respondents. With the consent of all the parties, the writ petition is heard at the admission stage itself.

2) The present writ petition came to be filed seeking issuance of writ of mandamus declaring the proceedings No.B/ 174/ 2014 dated 09.01.2015 issued by respondent No.4 as illegal, arbitrary and contrary to the provisions of the Andhra Pradesh Rights in Land and Pattadar Passbooks Act, 1971; and consequently set aside the said proceedings.

3) The case of the petitioners herein is that they are absolute owners and pattadars of land admeasuring Ac.0.20 gts., Ac.0.10 gts. and Ac.0.09 gts. in Sy.No.172 and Ac.1.04 gts., Ac.0.22 gts., and Ac.0.22 gts., in Sy.No.174 situated at Edulabandham Village, Kotapalli Mandal, Adilabad District. It is stated that the names of the petitioners were mutated in the revenue records and pattadar pass books were issued. While things stood thus, respondent Nos.5 and 6 herein and others started interfering with the possession of the petitioners over the said land, which lead to filing of O.S.No.7 of 2011 on the file of the Junior Civil Judge, Chinnur, Adilabad District, seeking perpetual injunction. Along

with the suit they also filed I.A.No.14 of 2011 seeking ad-interim temporary injunction. The trial Court granted ad-interim temporary injunction restraining the defendants therein from interfering with the property. Pending the suit, the un-official respondents filed a partition suit vide O.S.No.35 of 2012 before the Junior Civil Judge, Chinnur, claiming share in the property. On 12.09.2013 an exparte preliminary decree came to be passed in the said suit. It is said that steps are being taken for setting aside the exparte preliminary decree. While things stood thus, respondent No.4 issued notice dated 13.06.2016 for conducting survey and when the petitioners approached the authorities, the impugned proceedings were furnished to them.

4) A perusal of the contents of the impugned proceedings indicate that on the basis of the representation made by the un-official respondents through the grievance cell for implementation of the preliminary decree, the fourth respondent is said to have carried out the impugned entries. It is said that the entries made are illegal and improper for the reason that no final decree is passed in the said suit. Apart from that it is further urged that no notice was given to the petitioners before effecting changes in the revenue records. Hence, the present writ petition came to be filed.

5) Learned counsel for the petitioners mainly submits that no final decree is passed in O.S.No.35 of 2012 and the official respondents have no authority to carry out changes in the revenue records basing an exparte preliminary decree. He further submits

that the petitioners are taking steps for setting aside the exparte preliminary decree. He also submits that no notice was given to the petitioners before affecting changes in the revenue records. Sri B.Sudhakar Reddy, learned counsel appearing for the unofficial respondents did not dispute the said fact.

6) Having regard to the facts and circumstances of the case, the writ petition is allowed and the impugned proceedings No.B/ 174/ 2014 dated 09.01.2015 and the notice dated 13.06.2016 issued by respondent No.4 are hereby set aside.

7) There shall be no order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

20.10.2016  
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JUSTICE C. PRAVEEN KUMAR

