

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

WRIT APPEAL No.818 OF 2016

JUDGMENT: (per Hon'ble the Acting Chief Justice Ramesh Ranganathan)

This Appeal, under clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P.No.31578 of 2012 dated 02.06.2016. The appellant herein is the petitioner in the Writ Petition which was filed questioning the proceedings of the Revenue Divisional Officer dated 18.09.2012 cancelling the pattadar passbook issued in his favour, on the ground that the order was passed without putting the 4th respondent on notice and without giving her an opportunity of being heard.

The fact that Sri V. Kondala Rao was the owner of the subject property is not in dispute. While the appellant herein claims to have become the owner of the subject property on its being bequeathed to him, by way of a Will, by Sri V.Kondala Rao, respondents 5 to 8 claim to have purchased the subject property from the 4th respondent, (widow of Sri V.Kondala Rao), who died during the pendency of this Writ Petition.

In the order under appeal, the Learned Single Judge agreed with the submission of Sri T.V.S.Prabhakar Rao, Learned Counsel for the appellant, that the 2nd respondent lacked jurisdiction to entertain a representation submitted by the 4th respondent to set aside the entry in the revenue records whereby the appellant was shown as the pattadar of the subject property. The Learned Single Judge, however, observed that setting aside the order passed by the 2nd respondent would result in revival of the earlier proceedings of the year 2005 whereby the name

of the appellant herein was incorporated in the revenue records without deleting the name of the 4th respondent whose name was entered, in the revenue records, as the pattadar of the subject property from 1993 till 2005, more so without putting her on notice and without giving her an opportunity of being heard. The Learned Single Judge dismissed the Writ Petition holding that the jurisdiction under Article 226 of the Constitution of India is discretionary, and would not be exercised to revive an earlier illegality.

While Sri T.V.S.Prabhakar Rao, Learned Counsel for the appellant, would question the validity of the said order, and contend that the 4th respondent did not dispute the genuineness of the Will and it is respondents 5 to 8, who purchased the property from her, who are putting it in issue, Sri S.Subba Reddy, Learned Counsel for respondents 5 to 8, would submit that the claim of the appellant herein, to have been bequeathed the property by way of a Will in his favour by the 4th respondent's husband, can only be adjudicated in a Suit for declaration of title by a competent Civil Court; and, while the appellant had filed a Suit for injunction, he has not sought declaration of his title over the subject property.

The jurisdiction under the A.P. Rights in Land and Pattadar Passbooks Act, 1971, to include the name of the pattadar in the revenue records, is summary in nature and, when there are serious disputes regarding title, the proper forum, for resolution of such disputes regarding title, is the competent Civil Court. While we see no reason to interfere with the order under Appeal, we make it clear that this order shall not preclude the appellant herein from seeking declaration of his title, over the subject property, by way of a Civil Suit before the competent Civil Court. Needless to state that, if the

jurisdiction of the Civil Court is invoked, the Civil Suit shall be decided on its own merits uninfluenced by any observations made in the order under Appeal.

Subject to the aforesaid observations, the Writ Appeal fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand disposed of. No costs.

(RAMESH RANGANATHAN, ACJ)

(U.DURGA PRASAD RAO, J)

Date:14.09.2016

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