

**THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA
RAO**

WRIT PETITION No.15056 of 2014

ORDER:

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In this Writ Petition, the petitioner is seeking a directing a direction to the respondents to incorporate the name of petitioner as the owner and possessor of lands in Sy.No.77 of Hafeezpet Village, Serilingampally Mandal of Ranga Reddy District in the Revenue Records including pahanies by deleting the existing entry "Government land" in consonance with the mutation order passed by the 3rd respondent in proceedings No. B/965/2004 dt.14-11-2005.

2. The petitioner claims to have purchased the above land from P.Vijaya Reddy under a registered sale deed dt.10-06-2005. The petitioner then applied for mutation under the provisions of the A.P.Rights in Land and Pattadar Pass Books Act, 1971 (for short "the Act") to the 3rd respondent.

3. On 14-11-2005, the 3rd respondent passed an elaborate order and directed mutation in favour of petitioner in respect of the above land.

4. Thereafter, invoking the *suo motu* power under Section 9 of the Act, the 2nd respondent passed an order on 06-02-2007 setting aside the order passed by the 3rd

respondent on 14-11-2005.

5. The petitioner questioned the same in W.P.No.10074 of 2007. The said Writ Petition was allowed on 15-12-2008 and the order dt.06-02-2007 of the Joint Collector was set aside and the matter was remitted back to him to pass a fresh order in the light of the Government Memo No.28908/JA1/2004-1 dt.05-11-2004 and also notification vide G.O.Ms.No.603 Revenue (UC.I) dt.22-04-2008 issued under the Urban Land (Ceiling and Regulation) Repeal Act, 1999, which was adopted by the State of Andhra Pradesh on 27-03-2008.

6. In spite of the said direction, since the Joint Collector did not pass any fresh order, petitioner filed W.P.No.7861 of 2009 before this Court. On 28-04-2009, this Court directed the Joint Collector to explain by 30-04-2009 as to why necessary proceedings should not be initiated against him for not complying with its order.

7. Thereafter the Joint Collector, Ranga Reddy District vide proceedings No.D5/5532/2008 dt.06-05-2009 passed an elaborate order holding in favour of petitioner and directing the 3rd respondent herein to take necessary action under the provisions of the Act.

8. On 08-05-2009, the 3rd respondent issued a memo Lr.No.B/133/2009 restoring his original order dt.14-11-

2005 and directed the Village Revenue Officer, Hafeezpet Village to implement the same and record the name of the petitioner in pahani and report compliance.

9. Petitioner contends that respondents are bound to incorporate the name of petitioner as owner and possessor in respect of the above land in Revenue Records including pahanis pursuant to the above proceedings and since they have not done so, the petitioner was constrained to file this Writ Petition after issuing legal notice
dt.10-03-2014 setting out all the above facts.

10. Counter affidavit is filed by 3rd respondent denying the purchase of the land by petitioner on the ground that the vendor of petitioner was not competent to execute the sale deed and contending that the State Government is the owner as per Revenue records. Reference is also made to the order dt.06-02-2007 of the Joint Collector, Ranga Reddy District setting aside the order of the 3rd respondent
dt.14-11-2005 and contending that the subject land was subject matter of C.S.No.14 of 1958, but the State Government was not a party therein and that there was a compromise between the private parties, which did not bind the State. It is also asserted that there is no declaration of title in respect of the subject land as a private patta land in C.S.No.14 of 1958.

11. There is no mention in the counter affidavit of the order passed by this Court in W.P.No.10074 of 2007 or the order dt.28-04-2009 in W.P.No.7861 of 2009 or the order of the Joint Collector dt.06-05-2009 and the order of the 3rd respondent dt.08-05-2009. This is indeed shocking. The conduct of 3rd respondent in not adverting to these documents amounts to suppression of facts. It is clear that the 3rd respondent has thus tried to mislead this Court by filing such affidavit.

12. Be that as it may, the contention of the petitioner that the State Government was the defendant in C.S.No.14 of 1958 and that the appeals filed by the State Government against the decree therein was rejected upto the Supreme Court of India is not disputed by the learned Assistant Government Pleader for Revenue.

13. In the order passed by this Court on 15-12-2008 in W.P.No.10074 of 2007, to which the respondents are parties, the Court referred to the fact that petitioner's vendor had acquired title from the defendant No.39 in C.S.No.14 of 1958 after the assignment deed was approved by this Court. So it is not as if the respondents are not aware of the right of the vendor of the petitioner in the subject property.

14. The 1st respondent had also issued a memo dt.05-

11-2005 instructing the Joint Collector, Ranga Reddy District to mutate the lands in Sy.No.77 of Hafeezpet Mandal along with other lands in favour of the claimants, who purchased from the Decree Holders and this is also specifically referred to in the order passed by the Joint Collector, Ranga Reddy District on 06-05-2009. It is strange that this Government Memo is also not referred to in the counter affidavit filed by 3rd respondent. Therefore the contention of respondents that the subject land is Government land and that the petitioner had not acquired any valid title to the same is liable to be rejected.

15. In view of the order dt.06-05-2009 of the Joint Collector, Ranga Reddy District and the consent order dt.08-05-2009 of the 3rd respondent himself directing restoration of the mutating orders issued on 14-11-2005 in favour of petitioner, respondents cannot avoid incorporation of the name of petitioner as owner and possessor of the subject land in the Revenue records by deleting the entry "Government land" therein.

16. Therefore the Writ Petition is allowed with costs of Rs.5,000/- (Rupees Five Thousand only) to be paid by 3rd respondent in four (04) weeks from today and a Writ of Mandamus is issued to respondents to incorporate the name of petitioner as owner and possessor of the subject land in all the Revenue records including pahanies by deleting the entry "Government land" therein.

17. As a sequel, miscellaneous petitions pending if any,
in this Writ Petition shall stand closed.

JUSTICE M.S. RAMACHANDRA RAO

Date: 17-03-2016

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