HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.6245 of 2009

ORDER:

This Writ Petition is filed against the order dated 21-02-2009, wherein the 1st respondent-Joint Collector, Ranga Reddy District, Hyderabad, dismissed the revision filed by the petitioner under Section 9 of the AP Rights in Land and Pattadar Passbooks Act, 1971, (for short, "the Act").

2. The case of the petitioner is that originally one Mr.Ghouse Moinuddin and others were pattedars of the subject lands situated at Kappapahad Village, Ibrahimpatnam Mandal, Ranga Reddy District. That the petitioner purchased the subject lands by virtue of an agreement of sale dated 02-11-1998 and since then she is in peaceful possession and enjoyment of the same. Subsequently she has submitted an application before the 3rd respondent-Mandal Revenue Officer, Ibrahimpatnam, seeking mutation of her name in the revenue records and the 3rd respondent after due enquiry, issued certificate in Form No.13(B) under Section 5-A, Rule 22(5)(ii) of the Act, vide proceedings in D/512/2006, dated 05-03-2007 by collecting requisite stamp duty of Rs.36,360/-. Challenging the same, the

4th respondent preferred the appeal before the 2nd respondent-Special Deputy Collector alleging that he purchased the subject land from its original owners by virtue of a registered sale deed dated 30-08-2006, but the 2nd respondent without issuing any sort of notice and opportunity of being heard to the petitioner set aside the orders passed by the 3rd respondent. Aggrieved thereby, the petitioner filed the revision along with stay petition before the 1st respondent-Joint Collector, but as no orders were passed, she filed WP No.13016 of 2008 and this Court disposed of the same on 24-06-2008, directing the 1st respondent herein to pass appropriate orders on the stay application and granted status quo. Later, the 1st respondent without proper appreciation of the facts and the material available on record, dismissed the revision vide order dated 21-02-2009. Aggrieved by the same, the present writ petition is filed.

3. Heard both sides.

4. Learned counsel for the petitioner submits that the petitioner purchased the subject lands, which is the subject matter of the revision, by way of agreement of sale and the same is validated vide proceedings dated

05-03-2007 by the 3rd respondent-Mandal Revenue Officer, Ibrahimpatnam, by collecting requisite stamp duty but, without considering the same, the 1st respondent erroneously dismissed the revision.

5. On the other hand, learned counsel for the 4th respondent submitted that the 3rd respondent in exercise of the powers under Section 5-A of the Act has no authority to issue a certificate validating the alienation or transfer on the basis of an agreement of sale, and the same was rightly set aside by both the appellate authority-2nd respondent and affirmed by the revisional authority-1st respondent, as agreement of sale dated 02-11-1998 relied on by the petitioner is neither an absolute alienation nor a transfer of property. In support of his contention, learned counsel relied on a decision of this Court in ***K.Seetharama Reddy v. Hassan Ali Khan (2003(1)ALD 563 (DB).***

6. Section 5-A of the A.P. Rights in Land and Pattadar Pass Books Act, 1971, reads as under:

> "5-A: Regularization of certain alienations or other transfers of lands:-
>
> (1) Notwithstanding anything contained in this Act, the Transfer of Property Act, 1882, the Registration Act, 1908 or any other law for the time being in force,

(where a person is an occupant) by virtue of an alienation or transfer made or effected otherwise than by registered document, the alienee or the transferee may, within such period as may be prescribed, apply to the Mandal Revenue Officer for a certificate declaring that such alienation or transfer is valid.

(2) On receipt of such application, the Mandal Revenue Officer shall after making such enquiry as may be prescribed require the alienee or the transferee to deposit in the office of the Mandal Revenue Officer an amount equal to the registration fees and the tamp duty that would have been payable had the alienation or transfer been effected by a registered document in accordance with the provisions of the Registration Act, 1908, as fixed by the Registering Officer on a reference made to him by the Mandal Revenue Officer on the basis of the value of the property arrived at in such manner as may be prescribed.

Provided that the Mandal Revenue Officer shall not require the alienee or the transferee to deposit the amount under this sub-section unless he is satisfied that the alienation or transfer is not in contravention of the provisions of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, the Urban Land (Ceiling and Regularization) Act, 1976, the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 and the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977.

7. In **K.Seetharama Reddy v. Hassan Ali Khan (2003(1)ALD 563 (DB))**), considering the effect of Section 5-A of the Act, Division Bench of this Court held that the agreement of sale cannot be regularized as the said document is not enough for regularization under Section 5-A of the Act. In 2007 (6) ALT 1345, the Full Bench of this Court observed that issuance of notice to the affected parties before mutation of the names in the revenue records under the ROR Act is mandatory. It is stated that as on the date of the order passed by the 3rd respondent, the 4th respondent's name has been recorded as the pattedar of the subject lands and under those circumstances, issuance of notice to the 4th respondent was mandatory on the part of the 3rd respondent to the 4th respondent when his properties rights are sought to be affected. On the perusal of all these facts and circumstances of the case, this Court is of the view that the impugned order does not warrant any interference by this Court.

8. Inasmuch as the impugned order passed by the 1st respondent is in accordance with the law laid down by this Court in **K. Seetharama Reddy vs. Hassan Ali Khan (1 Supra)**, I do not find any infirmity in the

said order. Accordingly, the writ petition is dismissed as devoid of merits. No order as to costs. Miscellaneous petitions, pending if any, shall stand closed.

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A.RAJASHEKER REDDY, J

Dated: 11-04-2016
Pab/Nrg

THE **HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**

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