HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

W.P. No.24860 OF 2014

ORDER :

This writ petition is filed challenging show cause notice vide Rc.C.No.694/2014, dated 13.08.2014 issued to the petitioners by the Revenue Divisional Officer-2nd respondent in pursuant to the application made by the unofficial respondent i.e., 4th respondent for cancellation of pattadar passbooks issued to the petitioners.

2. Heard both sides.

3. Learned counsel for the petitioners submits that the appellate authority cannot straight away entertain the application filed by the 4th respondent for cancellation of pattadar passbooks and it is for the 3rd respondent to consider the application of the petitioners. The 2nd respondent-Revenue Divisional Officer cannot issue the impugned notice. In support of his contention, he relied on the judgment reported in **Krishtappa and others v. Joint Collector and Additional District Magistrate, Ananthapur and others**[1] **and Sannepalli Nageswar Rao and another v. Dis. Collector, Khammam and others**[2]**.**

4. On the other hand, learned counsel for the 4th respondent submits that since the 4th respondent has purchased the land of the petitioners, as such, petitioners are not entitled for grant of pattadar passbooks.

5. The issue in the writ petition is no longer *res integra* in view of the judgment in **Sannepalli Nageswar Rao and another v. Dis. Collector, Khammam and others (supra),** wherein the Division Bench of this Court held as follows:

> "9. It is fairly well settled that where a statute prescribes a particular thing to be in a particular manner, it shall be done only in the manner prescribed as held by the Hon'ble Supreme Court in Asst. Collector, CE v. N.T. Co., of India Limited, , which was followed in CIT v. Anjum M.H. Ghaswala, . A careful perusal of the provisions of the Act would show that a detailed procedure as to the manner in which the appeals are to be filed, including the period of limitation, is prescribed under the Act, Therefore, as rightly contended by the learned Counsel for the appellants that any appeal filed in violation of the said procedure cannot be entertained. In the instant case, the Revenue Divisional

Officer has exceeded his jurisdiction and has acted in violation of the provisions of the Act and therefore the appellants/writ petitioners have rightly approached this Court. This apart, the allegations made by the fourth respondent do not constitute a ground for filing an appeal under Section 5(5) of the Act. If the fourth respondent is aggrieved by any entry, the only remedy available is under Section 8(2) of the Act under which he has to seek a declaration of his right under Chapter VI of the Special Relief Act, 1963 in Civil Court and the entry in record of rights shall be amended in accordance with any such declaration. In the instant case, both the parties allege that they are in possession of the respective extents of land in Sy.No.394/AA. The appellants contend that they are in possession of Ac.6.21 guntas and Ac.4.20 guntas out of Survey No.394/ AA respectively situated at Gumpena village, whereas fourth respondent contends that he is in possession of part of extent of land in the said survey number. Under such circumstances, it is left to both parties to approach the Civil Court for redressal of their grievance. But, in the instant case, it is submitted by the learned Counsel for the fourth respondent that there is tampering of records and therefore, in our opinion, the remedy would be to approach the Mandal Revenue Officer for amendment and updating of record of rights. Section 5(5) provides that against every order of recording authority either in making amendment in record of rights or refusing to make such amendment, an appeal shall lie to the Revenue Divisional Officer or such authority as may be prescribed within sixty days from the date of communication of the said order and the decision of the appellate authority thereon shall be subject to provisions of Section 9 be final. Therefore, it is proper for the fourth respondent, who is now complaining that there is tampering of records, to approach the Mandal Revenue Officer under Section 5 of the Act, who shall determine as to whether and if so in what manner the record of rights may be amended in consequence thereof and shall carry out the amendment in the record of rights in accordance with such determination. At the time of hearing, all the parties fairly concede that the Mandal Revenue Officer has the jurisdiction to carry out the amendment as per the provisions of the Act and therefore all of them are ready and willing to submit to the jurisdiction of Mandal Revenue Officer, instead of approaching the Revenue Divisional Officer, who is an appellate authority."

In view of the principle laid down in the above citation, the impugned notice in the writ petition dated 13.08.2014 is set aside. However, it is open for the 4th respondent to approach the 3rd respondent-Tahsildar, Kurnool District, in respect of his grievance. It is open for 4th respondent to approach the 3rd respondent by way of an application. If the 4th respondent approaches the 3rd respondent, he shall dispose of the application in accordance with law.

Accordingly, this writ petition is allowed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending, shall stand disposed of.

A.RAJASHEKER REDDY, J

25.04.2016.

kvs

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

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[1] 2014 (4) ALT 767

[2] 2002 (4) ALT 465 (D.B)