

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 12322 OF 2012

ORDER:

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Heard learned counsel for the petitioners and learned counsel for the respondents.

The present Writ Petition came to be filed seeking issuance of writ of *Mandamus* declaring the action of respondent Nos.1 and 2 in changing the names of respondent Nos.3, 4 and 5 in Survey Nos. 553/AA, 553/U, 558/A and 554 in place of petitioners in Nadargul Village, Saroornagar Mandal, Ranga Reddy District, as illegal and arbitrary and consequently direct respondent Nos.1 and 2 to record the names of the petitioners as pattadars and possessors in R.O.R. in respect of lands in the said Survey numbers.

The averments in the affidavit filed in support of the Writ Petition would show that petitioner Nos.1 and 2 are the absolute owners, pattadars and possessors of agriculture land admeasuring Acs.4.06 guntas in Survey Nos. 553/AA and 553/U situated at Nadargul Village, Saroornagar Mandal, Ranga Reddy District. Petitioner No.3 is the absolute owner and possessor of Acs.1.30 guntas in Survey No.558/A and petitioner Nos.4, 5 and 6 are absolute owners and possessors of Acs.4.20 guntas in Survey No.554/A situated at Nadargul Village, Saroornagar Mandal, Ranga Reddy District. The Revenue Divisional Officer (RDO) vide proceedings No.E/396/75, dated 31.05.1979 granted Occupancy Right Certificate in favour of J. Rami Reddy after following due process of law and his name was also implemented in the revenue records as its pattadar and possessor. Thereafter, the petitioners purchased the above said land and the revenue authorities also issued pattadar pass books bearing Nos.543, 545, 712, 1285 and 1286 in respect of the land in question. While things stood thus, the Deputy Collector and the Tahsildar, Saroornagar Mandal, Ranga Reddy District, without issuing any notice or opportunity rounded off the names of the petitioners in the R.O.R. The action of respondent No.2 in rounding off the names of the petitioners is the subject matter of challenge in the present Writ.

A counter came to be filed by the second respondent. Para No.3 of the counter reads as under:

“In reply to paras 2 to 7 of the affidavit, it is submitted that as per the revenue records of Nadergul Village the land in Survey Nos.553, 554 and 558 to an extent of Acs.18.08 guntas, Acs.14.09 guntas and Acs.2.05 guntas are recorded in the name of Mira Mohammed Ali Baig and others as pattedars and the different names were recorded as possessors and basing on the available record it is found that the RDO, Hyderabad East Division was granted Occupancy Right Certificate vide Nos.E/401/79, E/396/75, dated 26.05.1979, Dated 31.05.1979 in respect of lands in Survey Nos. 553, 554 and 558/A and 558/AA to an extent of Acs.3.00, Acs.4.20 guntas and Ac.1.03 guntas and Ac.1.02 guntas also with other numbers situated at Nadergul Village in favour of Sri J.Ram Reddy and Sri Y.Durga Reddy, S/o. Ram Reddy. Aggrieved by the said ORC, Sri Nawab Mir Ahmed Ali Khan and others have filed appeal before the Joint Collector, R.R.District. The same has been taken on record by the Joint Collector and passed orders vide No.F1/3489/2001 and F1/3491/2001, dated 29.04.2002 by setting aside the Occupancy Right Certificate grant in file No.E/401/79 and E/396/75, dated 31.05.1979 and remanded the case for denovo enquiry”.

Where as in W.P.No.21631 of 2009 the Tahsildar filed counter and para No.6 of the counter reads as under:

“It is also submitted that aggrieved by the said orders of Tahsildar, an appeal has been filed before the Joint Collector, R.R.District, and the same has been disposed with common judgment vide proceeding Nos.F1/1720/2010, F1/1721/2010, F1/1722/2010, dated 22.01.2014, ordering that the matter is subjudice to the Hon’ble Court of A.P. in W.P.No.12322 of 2012 and advised the parties to wait the outcome the result of W.P.No.12322 of 2012 pertaining to lands in question.”

From the above, it is clear that the appeal was filed by some other parties aggrieved by the order of the Tahsildar. After considering the arguments advanced by the third parties, the Joint Collector is said to have disposed of the appeal.

A reading of the prayer of the petitioners in the affidavit does not anywhere indicate as to which proceedings are challenged in the Writ Petition. The main grievance of the petitioners appears to be with regard to rounding off their names in Adangal, which according to them was done without any prior notice. Whether such

act of rounding off the names of the petitioners was done by respondent No.2 or whether it was done after issuing notice to the petitioners are the disputed facts which cannot be dealt with under Article 226 of the Constitution of India, moreso, when the statute provides an alternative remedy to the petitioners by way of appeal before the Revenue Divisional Officer, against the order of the Tahsildar. The petitioners should have availed the same instead of approaching this Court.

The Apex Court in **Commissioner of Income Tax v.Chhabil Dass Agarwal** held that *“the High Court will not entertain a petition under Article 226 of Constitution, if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance still holds the field. Therefore, when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation.”*

In view of the judgment referred to above and having regard to the facts and circumstances of the case, I see no merit in the Writ Petition and the same is accordingly dismissed, leaving it open to the petitioners to avail the remedies available under law. No order as to costs.

Consequently, the Miscellaneous Petitions, if any, pending in this Writ Petition shall also stand dismissed.

JUSTICE C. PRAVEEN KUMAR

08.02.2016

vhb