

THE HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.3987 OF 2016

ORDER:

Heard.

The petitioner herein claims to be the assignee even prior to filing of the suit by one Nooka Gangi Reddy. It is stated that the said Nooka Gangi Reddy filed a suit in O.S.No.147 of 2000 before the Junior Civil Judge, Rajampet, against respondents 2 to 4 seeking permanent injunction. The said suit was decreed on 18-12-2009 and the appeal filed by the defendants being A.S.No.5 of 2010 before the Principal Senior Civil Judge, Rajampet was dismissed on 13-04-2011. It appears that S.A.No.1078 of 2011 is pending before this Court at the instance of the defendants. While so, the petitioner claiming to be the assignee of the land even prior to filing of suit by the said Nooka Gangi Reddy made an application before the 4th respondent seeking mutation of her name in the revenue record relating to the land admeasuring Ac.5-00 cents in Sy.No.1115/1 situated at Thallapaka Village, Rajampeta Mandal, YSR District. Since the Second Appeal is pending before this Court, the petitioner filed an application for impleadment, which was however dismissed vide order in S.A.M.P.No.594/12, dated 18-04-2013 observing that "...Since the petitioner is not a party to the civil proceedings and since she claims to be assignee of the land prior to filing of the suit in the trial Court, any decision herein or decree passed herein will not be binding on the petitioner...."

The petitioner thereafter approached this Court by way of W.P.No.30646 of 2015 alleging inaction of the 4th respondent in considering her application for mutation. The said writ petition was disposed of on 21-09-2015 directing that 4th respondent to consider the petitioners representation on the basis of the documents produced

by the petitioner and pass appropriate orders. Pursuant thereto, the impugned endorsement is issued by the 4th respondent rejecting the request of the petitioner on the basis of the decree above in favour of Sri Nooka Gangi Reddy.

Prima facie, the petitioner is held to be not bound by the said decree and her claim in respect of the land in question is stated to be anterior to that of the suit filed by the said Nooka Gangi Reddy. Hence, whether the 4th respondent has appropriately considered the petitioner's application for grant of mutation is required to be determined and that can be done by the appellate authority, which is entitled to examine the correctness or otherwise of the impugned endorsement of the 4th respondent. However, the petitioner has directly approached this Court against the impugned endorsement without exhausting the efficacious alternative remedy of appeal available to her under the provisions of the A.P. Rights in Land and Pattadar Act, 1971. Hence, I am not inclined to entertain the writ petition. However, the petitioner is given liberty to avail appellate remedy against the said impugned endorsement and adjudicate her claim before the appellate authority.

Accordingly, the writ petition is disposed of. No costs.

Miscellaneous Petitions, if any, pending shall stand closed.

VILAS V.AFZULPURKAR, J

09.02.2016

Prv

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