

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 17119 of 2015

ORDER:

1) Heard learned counsel for the petitioner and Government Pleader for Revenue.

2) The present writ petition came to be filed seeking issuance of writ of mandamus declaring the memo issued by the fourth respondent vide Memo No.B/ 1400/ 2014, dated 06.04.2015 as illegal, arbitrary and contrary to the provisions of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971; and consequently direct the fourth respondent to issue pattadar pass book and title deed in favour of the petitioner in respect of land admeasuring Ac.7.19 gts., in Sy.Nos. 147, 148 and 149 of Kalvalapally Village, Munugodu Mandal, Nalgonda District and to make necessary entries in column No.13 from the year 1989-90 to till date.

3) The petitioner herein claims to be the absolute owner and possessor of agriculture land referred to above. She is said to have applied for issuance of pattadar pass book and title deed by way of representation, dated 10.03.2014, to the fourth respondent and also approached the fourth respondent for making necessary entries in column No.13 of the revenue records from the year 1989-90 till date. The fourth respondent is said to have issued the impugned memo stating that the petitioner has kept

the said land fallow for a period of four years and the petitioner is not in possession of the said land. Challenging the said Memo the present writ petition came to be filed.

4) A counter came to be filed disputing the averments made in the affidavit. It is stated that in view of the orders passed by this Court in W.P.No.10684 of 2011 wherein the request of the petitioner for restoring her name as occupant in the revenue records was rejected and having regard to fact that O.S.No.323 of 2006 filed by Parne Sugunamma, which was dismissed and against which an application came to be filed to set aside the exparte order, which is pending, it is urged that the petitioner is not entitled for issuance of pattadar pass book and title deed.

5) A perusal of the material placed before the Court would show that on an application made by the petitioner, she was issued pattadar pass book and title deed in respect of lands admeasuring Ac.9.17 gts., in Sy.Nos.89 to 92, 150 to 157. Since wrong entries in respect of land admeasuring Ac.7.19 gts., in Sy.Nos.147, 148 and 149 came to be made in the name of P.Ranga Reddy, the request of the petitioner was rejected. As the said Ranga Reddy was interfering with the property in dispute, the petitioner herein filed O.S.No.1670 of 1989 seeking perpetual injunction, which was dismissed by the District Munsif vide judgment dated 01.07.1994. Challenging the same, the petitioner preferred A.S.No.32 of 1994 on the file of the District Judge, Nalgonda, which was allowed on 14.08.1995. Second appeal

preferred by said Ranga Reddy vide S.A.No.688 of 1995 was dismissed on 19.11.1997. This Court while dismissing the second appeal directed the Revenue Divisional Officer to enquire into the aspect of correction of entries in the revenue records, on an application dated 09.10.1993.

6) It is also to be noted that the said Ranga Reddy also filed O.S.No.323 of 2006 seeking declaration of title which was dismissed on 20.02.2013, against which an application is filed to set aside the exparte order which is pending. The record also discloses that pursuant to an observation made in S.A.No.688 of 1995 the Revenue Divisional Officer, vide proceedings dated 09.08.1999 deleted the name of the petitioner in respect of the said land for the year 1973-74 to 1988-89. A revision came to be filed before the Joint Collector, Nalgonda, which was also dismissed on 18.06.2001. Thereafter, the petitioner filed W.P.No.21129 of 2001. It is to be noted that by then the said Ranga Reddy died and his legal representatives were contesting the same. After hearing both sides, this Court allowed the writ petition setting aside the proceedings dated 18.06.2001, which order has become final. As no action was taken in spite of the orders passed in the writ petition, a contempt case came to be filed, which was rejected on the ground that the proper remedy is to file a separate application before the Tahsildar to restore the necessary entries in revenue records and a complaint to District Collector, Nalgonda if there is any failure. It is said that though the representations are made, as directed by this Court, no action

has been initiated till date, which lead to filing of W.P.No.10684 of 2011 seeking restoration of her name in the revenue records. Vide order, dated 27.07.2011, the name of the petitioner was restored in the pahanies and as such the said writ petition was dismissed as the grievance of the petitioner was redressed.

7) A reading of the counter filed in W.P.No.10684 of 2011 clearly indicate that the Tahsildar admitted that the petitioner is original pattadar of land to an extent of Ac.7.19 gts., in Sy.Nos.147, 148 and 149 situated at Kalwalapalli Village, Munugode Mandal and her name was recorded in pattadar and possessor column of pahani for the year 1973-74 to 1989-90. By an order dated 12.06.2014 this Court dismissed the writ petition. It would be relevant to extract the relevant portion of the order, which is as under:

“On 19.04.2011, this Court ordered notice before admission and subsequently, the third respondent-Tahsildar has filed a counter affidavit. In Para No.4 of the counter, it is stated as follows:

“In this regard, it is humbly submitted that after perusing the application of the petitioner and objections filed by the respondents and keeping in view of the judgments of Hon’ble High Court in W.P.No.21129 of 2005 dated 15.11.2005 and order dated 12.11.2009 in C.C. (SP) No.2409 of 2009, it is revealed that the respondents have not filed any writ appeal before competent Court. In the above circumstances, the name of the petitioner is restored in pahani in respect of the land to an extent of Ac.7.19 gts., in Sy.Nos.147, 148 and 149 of Kalwalapally Village, Munugodu Mandal, with effect from 1973-74 to 1988-89 vide order D/ 2503/ 2011, dated 27.07.2011”.

In view of the above averments, the name of the petitioner is already restored in the pahani, as such the grievance of the petitioner stands redressed and no further orders are necessary in this writ petition.”

8) From a reading of the above order, it is clear that the name of the petitioner is being restored in the revenue records. Pursuant thereto the petitioner again made a representation before the authorities for making necessary entries in the revenue records and also for issuance of pattadar pass book and title deed in respect of the above land. Without considering the orders passed by this Court in the earlier round of litigation, the impugned memo came to be issued rejecting the request of the petitioner stating that the land was kept fallow for a period of four years and the petitioner is not in possession of the said land. It is to be noted that in the counter filed in the earlier writ petition it has been specifically admitted that the petitioner is in possession of the property and that her name has already been restored in the revenue records. This Court while accepting the averments made in the counter closed the writ petition which is referred to above. In fact, in Contempt Case (SR) No.2409 of 2009 this Court observed as under:

“After hearing learned Counsel for petitioner and learned Assistant Government Pleader for Revenue (Telangana Area) and perusing the orders passed by this Court earlier, this Court is convinced that contempt case is not maintainable. As a consequence of quashing of the proceedings of the Joint Collector dated 18.6.2001, petitioner has a right to seek restoration of entries in the revenue records. But her remedy is to file separate

application to Tahsildar to restore necessary entries in revenue records and if there is any failure to lodge a complaint with District Collector, Nalgonda. Contempt case is not a proper remedy. Further, when the order was passed by this Court on 15.11.2005, contempt case is filed on 22.4.2009, which is barred by limitation under Section 20 of Contempt of Courts Act, 1971. If so advised, petitioner may make appropriate application yet again to the Tahsildar, Munugode, and if there is a failure to take action on such application, she may move a petition before the District Collector, Nalgonda, or file a writ petition.”

9) That being the position, the impugned memo which has been passed contrary to the earlier admissions made in the counter, is liable to be set aside. At this stage it is to be noted that though the legal heirs of P.Ranga Reddy were contesting the matter in the earlier round of litigation, but for the reasons best known they are not made parties to the writ petition. Infact, an objection to that effect was raised by the Government Pleader for Revenue.

10) Having regard to the aforesaid circumstances, the impugned memo is set aside. The petitioner shall make a fresh application in the prescribed format for issuance of pattadar pass book and title deeds, in which event the authorities shall consider the case of the petitioner, after hearing the petitioner and the legal heirs of P.Ranga Reddy and also by taking into consideration the various orders passed by this Court earlier, which are referred to above, in accordance with law and pass orders as early as possible,

preferably, within a period of four (04) weeks from the date of receipt of a copy of the order.

11) With the above direction, the writ petition is disposed of. There shall be no order as to costs.

12) Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

29.12.2016
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