

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 25615 OF 2016

ORDER:

Heard.

2. Questioning the Memo dated 13.06.2016 bearing No.D5/2812/2016 passed by the Joint Collector-second respondent in refusing to admit and reject the revision petition filed by the petitionr under Section 9 of the Andhra Pradesh Rights in Land and Pattadar Passbooks Act, 1971 (for short, "the Act"), the present writ petition is filed.

3. The case of the petitioner is that he purchased an extent of Ac.2-13 guntas in Survey No.104/A (out of total extent of Ac.6-13 guntas) of Torrur Village of Hayatnagar Mandal, Ranga Reddy District from one S.Laxmamma under an agreement of sale dated 01.02.1996. However, the vendor i.e., Sama Lakshamma executed a registered sale deed dated 10.04.1997 in favour of third parties. Questioning the same, petitioner filed suit viz., O.S.No.298 of 1997 seeking specific performance of agreement of sale and also another suit viz., O.S.No.815 of 1997 for declaration of the registered sale deed executed in favour of the third parties as null and void. Since the said suits were dismissed, petitioner preferred A.S.No.11 of 2006 and A.S.No.12 of 2006 respectively and the same were allowed and the suits were accordingly decreed. Thereby, a registered sale deed was executed by the original owners in favour of the petitioner dated 07.12.2011 bearing No.4458 of 2011. Thereafter, petitioner approached the Tahsildar by filing an application seeking mutation of his name, which was rejected. Aggrieved by the rejection of his application by the

Tahsildar, petitioner has filed appeal under Section 5(5) of the Act, which also came to be dismissed. Both the Tahsildar as well as the Revenue Divisional Officer (RDO) dismissed the request of the petitioner for mutation on the ground that the land in question has been converted into non-agricultural land by Sri Mithra Estates Private Limited, who was the subsequent purchaser in whose favour the sale deed was executed by the third parties pending the suits filed by the petitioner. Aggrieved by the orders of the RDO, petitioner approached the Joint Collector, second respondent, under Section 9 by filing Revision, which also came to be refused, under the impugned Memo dated 13.06.2016.

4. Though the Tahsildar as well as the RDO rejected the request of the petitioner for mutation of his name stating that it is outside the purview of the Act as the land in question was converted into non-agricultural land, there is no material to show that the nature of the land is a non-agricultural land. Another aspect which requires to be considered is the petitioner's right to obtain pattadar passbooks and the correction of the entries in the revenue records on account of the right being intact declared in favour of the petitioner in the civil suits, which cannot be defeated. There being no *prima facie* material placed either by the Tahsildar or the RDO, at the very threshold the revisional authority could not have refused to admit the revision. Even assuming that such a finding is recorded, Revision being a statutory right vested on the petitioner by virtue of Section 9 of the Act, the same could not have been refused at the threshold.

5. In view of the above, the impugned Memo dated 13.06.2016 being unsustainable, is accordingly set aside with a direction to the second respondent to entertain the revision. It is

made clear that the observations made in the process of disposal of the present writ petition shall not be construed as expressing any final opinion by this Court and the second respondent is required to take the material on record that was placed before the Tahsildar as well as the RDO and deal with the matter on its own merits and pass appropriate orders in accordance with law.

With the above direction, the writ petition is disposed of. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

JUSTICE CHALLA KODANDA RAM

August 10, 2016
LMV