

HON'BLE SRI JUSTICE S.V.BHATT

W.P.No.37698 OF 2014

ORDER:

Heard Mr.K.Ramesh for petitioner, Assistant Government Pleader (Revenue) for respondents 1 to 4 and Mr.G.Venkata Reddy for respondents 5 to 7.

The issue arises under the A.P. Rights in Land and Pattadar Passbooks Act, 1971 (for short, 'the Act').

The petitioner invokes the jurisdiction of this Court for a Mandamus declaring the inaction of respondent No.4 in implementing the orders in R.C.(E) 2435/2012 dated 22.05.2013 of respondent No.3 as illegal and arbitrary. The petitioner prays for a consequential direction to 4th respondent to implement the orders dated 22.05.2013 of 3rd respondent.

The petitioner filed appeal before 3rd respondent against the mutation or grant of pattadar pass book in favour of respondent Nos.5 to 7. The 3rd respondent through proceedings dated 22.05.2013 accepted the plea of petitioner and finally held as follows:

“The then Tahsildhar had issued pattadhar pass books and title deeds in favour of the respondents without making any enquiry.

In view of the above reasons, the pattadhar pass books and title deed issued in favour of Venugopal Reddy, Sridevi and Sandeep Patil in respect of the lands in Sy.No.2 admeasuring Ac.24-46 cents, Sy.No.1/1 admeasuring Ac.8-36 cents and Sy.No.1/2 admeasuring Ac.9-46 cents of Chirumandoddi Village, Aspari Mandal are hereby cancelled. The Tahasildhar, Aspari is hereby directed to cancel forthwith the pattadhar pass books and

title deeds issued in favour of respondents and submit a report thereof. He is further directed to take steps in accordance with the provisions of the R.O.R. Act”.

The petitioner has placed on record the order RC.D5/2626/2013 dated 15.11.2014 of 2nd respondent wherein the revision filed by respondents 5 to 7 herein was entertained and the 2nd respondent concluded the revision as follows:

“Perused the connected records and considered the arguments put forth by both the counsels. This is an issue on settlement of title over the property between the petitioners and respondent. Further, the matter is already engaging the attention of the subordinate Court, Adoni in O.S.No.9/94. As the matter involves dispute of civil nature, in the fits of things, dispute is to be settled in civil court only. Accordingly the case is disposed of and the revision petitions and the respondent are advised to get their dispute settled in the civil Court”.

Counsel for petitioner contends that the 4th respondent has failed to appreciate the directions issued by 3rd respondent and the conclusions recorded by the Joint Collector, for according to him, the pattadar passbooks/title deeds issued in favour of respondents 5 to 7 are required to be cancelled, even assuming that the issue is left open for consideration and carrying out the entries under Section 8(2) of the Act. Therefore, according to him, the cancellation of pattadar passbook as directed by 3rd respondent could have been carried out.

Mr.Venkata Reddy, appearing for respondents 5 to 7, contends that the parties have already joined issue in O.S.No.9 of 1997 in the Court of the Subordinate Judge, Adoni. The suit is pending and in view of the overriding effect of Section 8 of the Act,

the cancellation of pattadar pass book is academic, maintenance and correction or continuation of record of rights shall be in accordance with Section 8(2) of the Act.

I have perused the writ prayer and the submissions of learned counsel appearing for the parties. Briefly stated, this Court is of the view that the prayer of petitioner, if circumstances warrant and there is no change vis-à-vis the order dated 22.05.2013, the same could have been considered and appropriate directions issued. Now, the order of 3rd respondent is conditioned by the conclusions recorded by revisional authority/2nd respondent. The revisional authority, after noticing the issue for consideration and decision, has left it open to the parties to get their dispute settled in the civil Court. This evidently pre-supposes that the steps already taken in pursuance of or under the Act are made subject to the result of O.S.No.9 of 1997. Issuing direction at this stage of the matter, for any purpose, is unnecessary and also not required.

For the above reasons, by taking note of the scope and object of Section 8(2) of the Act and also pendency of the suit in O.S.No.9 of 1997 in the Court of the Subordinate Judge, Adoni, the writ petition is dismissed. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any pending, stand closed.

S.V.BHATT,J

27th July, 2017

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