

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P. No.14059 OF 2009

ORDER :

This Writ Petition has been filed by the petitioner assailing the order dt.15.10.2008 in proceedings No.A/2276/2008 of the 2nd respondent.

2. Heard counsel for the petitioner and the Government Pleader for Revenue for respondents 1 to 3.

3. Sri Hari Sreedhar, Counsel appearing for respondents 4 and 5 has stated that he had no instructions and that he had filed memo to that effect.

4. No other counsel has been engaged by respondents 4 and 5 to represent them in the Writ Petition.

5. Petitioner is the wife of one Samba Reddy. The said Samba Reddy had three brothers by name Seetharam Reddy, Adi Reddy and Krishna Reddy. They are the sons of one Mallaiah.

6. The family of Mallaiah owned land in survey No.374 and 380 of Kadipikonda Village, Hanamkonda Mandal. There was a family partition reduced in writing on 04.12.1960, in which, each of the four brothers were allotted Acres 6-19

guntas of land. Thereafter, mutation was effected in the name of the respective parties.

7. According to the petitioner, on the death of her husband, she is in possession of Acre 0-30 guntas in survey No.374/A and Acre 0-10 guntas in survey No.589 of land which was part of the land allotted to her husband in partition with his brothers.

8. Alleging that the petitioner's husband sold portion of the land in Survey No.374, the 4th respondent filed an application on 22.05.2007 before the 2nd respondent seeking cancellation of pattadar pass books and title deeds issued to the petitioner, after the death of petitioner's husband.

9. An enquiry was caused by the 2nd respondent through the Mandal Revenue Inspector asking the petitioner to show cause, why pattadar pass books and title deeds issued in respect of the land in survey Nos.374 and 589 to the petitioner, should not be cancelled.

10. Petitioner did not respond to the said notice and on the basis of the report of the 3rd respondent and documents filed by the 4th respondent, the 2nd respondent came to the conclusion that the petitioner's husband had sold away the land in survey No.374 to the 4th respondent and to others

and land in survey No.589 is Abadi land and not agricultural land. He therefore, cancelled the pattadar passbooks and title deeds issued to the petitioner in respect of Acre 0-30 guntas in survey No.374/A and Acre 0-10 guntas in survey No.589.

11. When the petitioner filed a Revision challenging the said order before the 1st respondent, the 1st respondent merely directed maintenance of *status quo*.

12. Petitioner contended that she filed a suit for injunction in O.S.No.479 of 2008 before the Principal Junior Civil Judge, Warangal against the respondents 4 & 5 and on 09.05.2008, she obtained an interim injunction in I.A.No.1194 of 2008.

13. Petitioner also relied upon a certificate issued by the Sarpanch of Kadipikonda Grampanchayat that the notice issued by the 2nd respondent was not affixed to the house of the petitioner.

14. Counsel for the petitioner contended that there is no provision in the A.P. Rights in Land and Pattadar Passbooks Act, 1971(for short 'the Act') conferring power on the 2nd respondent to alter mutation or to cancel pattadar passbooks issued in favour of a party, and that any such jurisdiction is

only vested with the District collector. He relied upon the decision of this Court in ***G.Prabhakar v. State of Telangana and others***¹.

15. In the said decision, this Court has held that where there is a mistake in revenue records, only if such mistake is detected within one year time prescribed under Sub-Section (3) of Section 3 of the Act, the 3rd respondent can correct it, but if an application is made to correct entries in the revenue record beyond one year, the competent authority is the District Collector, who has to exercise power under Section 9 of the Act.

16. This legal position is not disputed by the Government Pleader for Revenue.

17. Therefore, it has to be held that the impugned order dt.15.10.2008 passed by the 2nd respondent is wholly without jurisdiction, since he was not the Competent Authority under the Act to correct the entries in the revenue records or to cancel the pattadar passbooks.

18. Therefore, the Writ Petition is allowed; the order dt.15.10.2008 in proceedings No.A/2276/2008 of the 2nd respondent canceling the pattadar passbooks and title deeds

¹ 2015(4) ALD 427

issued in favour of the petitioner in respect of Acre 0-30 guntas of land in survey No.374/A and Acre 0-10 guntas of land in survey No.589 of Kadipikonda village, Hanamkonda Mandal, Warangal District is set aside; consequently, the order passed by the 1st respondent on 02.07.2009 is also set aside. There shall be no order as to costs.

19. Miscellaneous petitions pending if any, shall stand closed.

08th February, 2017
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M.S. RAMACHANDRA RAO, J

