

HON'BLE SRI JUSTICE S.V. BHATT

W.P. No.19437 OF 2013

ORDER:

Heard Mr.P.Laxma Reddy for petitioner, Mr.K.Venkatesh Gupta for respondent No.5 and the Assistant Government Pleader for Revenue.

The petitioner challenges order of 2<sup>nd</sup> respondent in Case No.D1/19/2011 in File No.D1/1600/2011 dated 27.04.2013. The 2<sup>nd</sup> respondent in exercise of the power and jurisdiction under Section 9 of the A.P. Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act') allowed the revision filed by 5<sup>th</sup> respondent and the operative portion of the order reads as follows:

“Perused the material available on record. On perusal of extract of Old R.O.R. and Pahanies for the year 1993-94, 2000-2001 and 2009-10 reveals that the Government land in Sy.No.224 admeasuring Ac.(5-21) gts situated within the limits of Thimmajipet Village and Mandal has been assigned to Mohd Sultan and classified as Lavoni Patta, and the said Mohd Sultan was cultivating the said land upto 1993-94. Subsequently the name of Mala Kurmaiah has been recorded as Pattedar and possessor of the suit land vide Tahsildar, Thimmajipet order dt.11.03.1996 in file No.C/4116/1995.

The contention of the respondent is that actually the land in Sy.No.224 admeasuring Ac (5-21) gts has been assigned to Mohd Sultan and that he has purchased the suit land from the original assignee through un-registered sale deed and the same has been regularized by the Tahsildar, Thimmajipet. The Tahsildar, Thimmajipet vide Lr.No.A/741/2010 Dt.10.11.2010 has informed that the file bearing No.C/4116/1995 is assigned to ROR case of Sy.No.390 and 418 extent Ac.(6-00) gts Bhoodan land of

Marikal Vilalge. It is crystal clear that the name of the respondent has been mutated in the R.O.R. without processing the case U/s.5(A) of the R.O.R. Act. Further the respondent has not produced any documentary evidence to substantiate that the husband of the Revision petition alienated the subject land in favour of the respondent through private sale deed. Hence it is established that the entries in the ROR were carried out illegally and without any documents.

In view of the above circumstances the revision petition is hereby allowed and the entries made by the Tahsildar, Thimmajipet in respect of land in Sy.No.224 Ac (5-21) gts Situated at Thimmajipet Village and Mandal are cancelled. The Tahsildar, Thimmajipet is directed to restore the original entries against the subject lands in the R.O.R. as was existed prior to 11.03.1996 and report compliance.”

The petitioner could not point out an illegality or error apparent on the face of record on the findings recorded by the 2<sup>nd</sup> respondent. Further the parties have joined issue in respect of the subject land before the competent Court having jurisdiction on the subject matter. Hence, the learned counsel submits that the creation, maintenance or continuance of record is always subject to the decision of the Civil Court under Section 8(2) of the Act. Therefore, liberty may be given to canvass all the aspects in the pending civil suit. This Court is of the view that the issue for consideration under the Act is about the entry, maintenance or continuance of name of a party in revenue record. This has *per se* nothing to do with possession or interference with one's possession by a rival party. Therefore, the parties, if circumstances warrant or are advised, work out remedies in the pending suit vis-à-vis the

possession of the subject matter of writ petition. The writ petition fails and is accordingly dismissed. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT, J

Date:20.07.2017

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