

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.39641 of 2016

ORDER:

This writ petition is filed challenging the order dated 29.09.2016, passed by the 2nd respondent in Case No.D1/827/2016, wherein the 2nd respondent allowed the revision filed by the respondents 5 and 6 under Section 9 of the A.P.Rights in Land & Pattadar Pass Books Act, 1971 against the orders dated 28.11.2015 passed by the 3rd respondent, directing the parties to approach Civil Court for declaration of title by availing remedy under Section 8(2) of the Act.

Sri A.Sudershan Reddy, learned senior counsel for the petitioner submits that suit in OS.No.523 of 1994 was filed by the respondents 5 and 6 before the Senior Civil Judge, R.R.District for specific performance of contract, declaration and perpetual injunction in respect of land admeasuring Ac.8.25 guntas in Survey No.264, situated at Boor Kunta, Narkhoda Village, Shamshabad, R.R.District and the same was withdrawn later by the respondent 5 and 6 after receiving compensation for the disputed land of Ac.4.00 from the defendants. He also submits that the petitioner purchased the subject lands through registered sale deeds dated 10.10.1994 and 27.02.2008 and through registered General Power of Attorney dated 10.10.1994 and mutation was also affected vide proceedings dated 23.03.2005 in respect of land

to an extent of Ac.4.25 guntas and in respect of balance land out of total extent of Ac.9.25 guntas an application was filed before the MRO for mutation of the names of the petitioner basing on the sale deed dated 10.10.1994. As no orders are passed, petitioner approached the appellate authority and the appellate authority directed the 4th respondent to consider the names of the petitioner and pass orders. But the 4th respondent without considering the effect of the orders in OS.No.523/1994, rejected the claim of the petitioner vide proceedings dated 28.01.2013 and the petitioner carried the same in appeal and the appeal was rightly allowed by the 3rd respondent on 28.11.2015 setting aside the orders dated 28.01.2013 and directed for amendment of revenue records by deleting the entries made against the respondents 5 and 6 herein and incorporate the name of the petitioner in respect of land to an extent of Ac.1.00 in Survey No.263 and Ac.4.00 in survey No.264. Against the same the respondents 5 and 6 filed revision before the 2nd respondent and the 2nd respondent erroneously allowed the same directing the parties to approach Civil Court. He further submits that already respondents 5 and 6 filed suit in OS.No.523/1994 and later withdrawn the same and that the injunction suit filed by the petitioner for injunction in OS.No.161 of 2007 was also decreed on 05.10.2007; and application filed by the respondents 5 and 6 for setting aside the said exparte decree was also dismissed.

On the other hand Sri S.Niranjan Reddy, learned senior counsel for respondents 5 and 6 submits that the respondents 5 and 6 purchased the subjects lands through registered sale deeds dated 23.05.1978 and 12.12.1980 and through agreement of sale dated 09.11.1997 i.e. Ac.6.05 guntas by registered sale deeds and Ac.4.00 guntas through Agreement of Sale dated 09.11.1987 which was regularized under Section 5A of the Act on 13.04.1995. He submits that the petitioner purchased the subject land subsequent to purchase of respondents 5 and 6 and petitioner has not challenged the sale deeds executed in favour of respondents 5 and 6. He further submits that even the appellate authority has found that the dispute is in civil nature, but yet granted relief in favour of petitioner and that the revisional authority has rightly allowed the appeal by observing that the revisional authority cannot decide the same and the parties have to approach the Civil Court by availing remedy under Section 8(2) of the Act.

In this case it is to be seen that admittedly both the parties are not disputing the execution of registered sale deeds by the common vendor and there is no clear identification regarding Ac.4.25 guntas in respect of which suit in OS.523 of 1994 is filed and the appellate authority also found that the dispute is in civil nature. Admittedly the so called mutation proceedings dated 23.03.2005 was also

not implemented. The respondent authorities cannot decide the issue as the common vendor executed two registered sale deeds in respect of same land to different parties. Even the Primary authority (Tahasildar) and the appellate authority (Revenue Divisional Officer) are of the same view. It appears that there is no basis for the observations made by the Revenue Divisional Officer and it is also not clear having found that the dispute is in civil nature, appellate authority gave a direction to the Tahasildar to mutate the names of the petitioner. It is settled law that the RDO cannot decide the title and go into the complicated questions of title. In view of the aforesaid facts and circumstances I am of the view that this Court cannot get into the disputed questions of fact and grant relief, as such I do not see any infirmity in the impugned order warranting interference of this Court by exercising power of judicial review under Article 226 of the Constitution of India.

Accordingly, the writ petition is dismissed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

23.01.2017
tk