

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.22881 OF 2009

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:-

“to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not considering petitioner’s name for entering into the village Panchayat records for levying of tax under the provisions of A.P. Panchayat Raj Act, 1994 as bad, arbitrary, contrary to the provisions of A.P. Panchayat Raj Act, 1994 and also offends Articles 14 and 21 of the Constitution of India”

2. Case of the petitioner is that on 19.03.1997, her husband – Tokala Srinivas, during his life time, purchased land to an extent of Ac.0.05 guntas in Sy.No.95 of Kaithanpalli Village, Mandamarri Mandal, Adilabad District for valid consideration under registered document No.704/1997. From the date of purchase, they are in peaceful possession and enjoyment of the land and constructed a shed in the said land. As her husband was allotted quarter belonging to Singareni Collieries, they used to reside in that quarter and during that period, the said house was given to respondent No.5, who is her husband’s brother, on rental basis. As her husband died on 14.06.2005, she wants to enter her name in the Gram Panchayat records for levying of tax and for all purposes, as she is the rightful owner of the land, but respondent No.5, by managing the Gram Panchayat, entered his name in the Gram Panchayat records for levying of tax and for all purposes. The

Executive Officer of Gram Panchayat shall give notice to the owner/tax payer at the time of preparing assessment books, but the Gram Panchayat herein failed to comply such requirement and prepared the assessment book. Petitioner made a representation to respondent No.2 on 18.03.2008 narrating all the facts and requested him to levy tax on the aforesaid house in the name of the petitioner instead of respondent No.5. Basing on the said representation, respondent No.2 issued notice, dated 18.03.2008, directing the petitioner and respondent No.5 to attend the hearing on 23.03.2008 and also another notice, dated 10.11.2008, for conducting enquiry. Ultimately, respondent No.3 has conducted enquiry and furnished the report to respondent No.2. Respondent No.2 has issued an order, dated 22.01.2009, stating that the petitioner has legal documents and she has right to enjoy the property, that the disputed land pertains to private persons and hence, their office cannot take further course of action in the private disputed land and hence, the petitioner was informed that if there is any objection, she may approach the Court of law, as the issue purely pertains to property dispute. It is the case of the petitioner that there is no title dispute, she is the rightful owner of the said property and her name was already mutated in the revenue records and hence, prays to enter her name in the Gram Panchayat records for levying tax.

3. Heard and perused the material available on record.

4. Though in the counter filed by respondent No.4, it is stated that since civil disputes are pending between the petitioner and respondent No.5, respondent No.4 is unable to record the name of

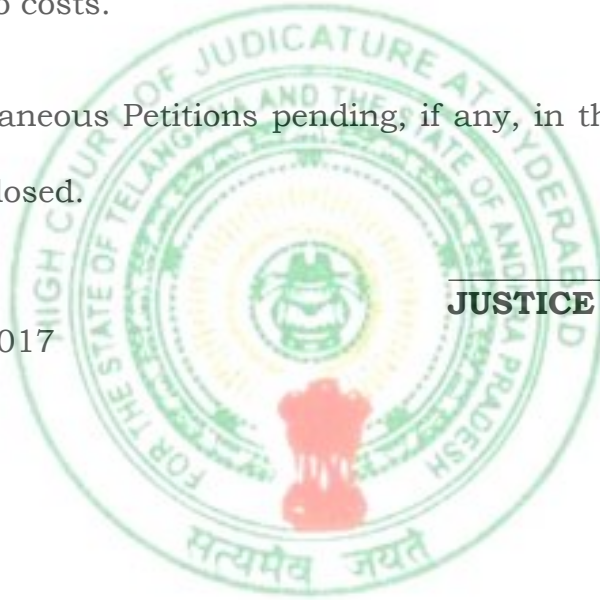
the petitioner in the Gram Panchayat records, the fact remains that the petitioner's name was already mutated in the revenue records. Further, the official respondents are unable to produce any document to show that any civil disputes are pending between the petitioner and respondent No.5 before a competent civil Court. Considering all these aspects, respondent No.4 is hereby directed to enter the name of the petitioner in the Gram Panchayat records by which she can be permitted to pay the taxes to the subject land.

5. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

6. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

Date:15.09.2017
AMD

JUSTICE RAJA ELANGO



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