

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 12759 of 2005

ORDER:

Heard both sides.

The present writ petition came to be filed seeking issuance of writ of mandamus directing the respondents to grant pattadar pass book in favour of the petitioner in respect of property admeasuring Acs.6.92 cents bearing Survey No.115 in Chintagunta Village of Markapur Mandal, Prakasam District, by cancelling the assignment made by the respondents in favour of third parties.

Though the prayer in the writ petition refers to Acs.6.92 cents in Survey No.115, it is to be noted that out of said Acs.6.92 cents, land admeasuring Acs.5.00 was sold to the petitioner after receiving valid consideration, whereas another piece of land, which is in dispute, relates to Ac.1.92 cents in the same survey number.

The averments in the writ affidavit would show that originally the father of the petitioner claims to be cultivating the land in Survey No.115 situated at Chintagunta, Markapur Mandal, Prakasam District admeasuring Ac.1.92 cents from more than 20 years and subsequently in the same survey No.115 situated at Chintagunta, the petitioner purchased Acs.5.00 of land for a valid consideration on 26.10.2004, for establishing an educational institution, for public purpose and for the welfare of the students

community. While things stood thus, the MRO and Village Assistant, without any notice and information and without the consent of the petitioner, allotted the said Ac.1.92 cents of land, without even considering the representations submitted to the concerned authorities seeking patta to the petitioner. The inaction of the official respondents lead to filing of the present writ petition.

Though the matter was heard earlier, no interim orders came to be passed in favour of the petitioner.

The MRO filed his counter disputing the averments made in the affidavit filed in support of the writ petition. According to him, the land in Survey No.115 admeasuring Acs.6.92 cents was purchased from one Annam Venkataratnam, through registered sale deed dated 26.10.1968 and now it is stated that the land in Survey No.115 was sub-divided as Survey Nos.115/ 1 and 115/ 2, admeasuring Acs.5.00 in Survey No.115/ 2 and 1.92 cents in Survey No.115/ 1 and reassigned the land i.e., 1.92 cents in favour of the unofficial respondents and subsequently the petitioner purchased land admeasuring Acs.7.11 cents from one Thirumalashetty Venkateswarlu and remaining land admeasuring Ac.1.92 cents pertains to petitioner's father namely M.Ananthaiah, who is owner. The assignment was made in favour of Smt. Enibera Deevnamma, wife of Nagaiah, after following due process of law. It is further stated that even Acs.5.00 of the land, which petitioner has purchased from Sri Thirumalasetty Venkateswarlu, is illegal for the

reason that the said person cannot alienate lands, assigned to him, violating the provisions of the Act, 1977. A perusal of the averments in the counter would show that the petitioner was in possession of the land admeasuring Ac.1.92 cents and his father's name was also not reflected in revenue records. Paragraph No.3 of the counter refers to the transactions that took place between the petitioner and the unofficial respondents and also with the vendor, which is said to be improper and incorrect.

The unofficial respondent filed counter disputing the averments made in the writ petition. According to him, no proof has been filed to show that the land admeasuring Ac.1.92 cents belongs to the petitioner or that the respondent was not in possession of the said land at any point of time. It is also stated that the said land was assigned to him and pattas were also issued. In view of the above, it is urged that there are no merits in the writ petition and the same is liable to be dismissed.

Reiterating the averments made in the writ affidavit, learned counsel for the petitioner refers to the orders passed by this Court in W.P.No.17856 of 2013.

It is to be noted that insofar as W.P.No.17856 of 2013 is concerned, the Division Bench of this Court was dealing with the land admeasuring Acs.5.00 in Survey No.115 of Chinthakunta Village. It was a case where the sale was conducted, sale certificate was also issued by the bank in respect of the subject

land. It was also stated therein that after appropriating the loan amount from out of the sale proceeds, the balance amount was deposited in the account of the petitioner, who was also withdrew the amounts from his account. This fact was not disputed by the counsel for the petitioner therein. However, submission was made that the title documents in respect of the said land are still with respondent-bank therein. In view of the same, the respondent-bank therein was directed to return title documents in respect of the land in Survey No.115 admeasuring Acs.5.00 situated in Chintakunta Village, to the title holder if respondent therein has no other lien over the borrower and the property concerned. The cheque book which appears to be with the bank was also directed to be returned to the petitioner.

As seen from the record the subject matter of dispute in the writ petition referred to above relates to the land in Survey No.115 admeasuring Acs.5, which is also in dispute now. The purchase of which is now sought to be disputed by the counsel on the ground that the property which has been assigned cannot be sold by the vendor of the petitioner. Be that as it may, the question now is whether the petitioner is entitled for grant of patta in respect of Acs.1.92 cents of land after canceling the assignment to the third parties. It is to be noted herein that no material has been placed on record to show that the petitioner has any right or authority over the land admeasuring Acs.6.92 cents.

On the other hand, the averment in para No.5 of the writ affidavit would show that he made a representation to the authorities for grant of patta in respect of land admeasuring Acs.1.92 cents and to issue pattadar pass book to the petitioner, which itself indicates that he has no legal right or title over the said property. Since the averments in the writ affidavit itself are sufficient to assess as to whether the petitioner has right over the entire property, I am not inclined to grant any relief to the petitioner.

Accordingly, the writ petition is dismissed. But, the petitioner is at liberty to avail the remedy available under law. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions pending if any in this Writ Petition, shall stand closed.

10.08.2017
vhb

C. PRAVEEN KUMAR, J