

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.6509 OF 2017

ORDER:

This writ petition is filed against the endorsement dated 07.10.2015, issued by the 3rd respondent wherein the application of the petitioner for grant of pattadar pass books and title deeds was rejected on the ground that AS.No.98/2012 filed by the unofficial respondents is pending.

Learned counsel for the petitioner submits that the petition filed by the unofficial respondents in EA.No.813 of 2009 in EA.No.538/2008 in EP.No.165/2005 in OS.No.103/2001, claiming subject property, was dismissed and that IA.No.2178/2012 in AS.No.98/2012 filed by the unofficial respondent seeking temporary injunction on the file of the I Additional District and Sessions Judge, West Godavari, Eluru, was also dismissed and against the same the unofficial respondents filed CMA.No.53 of 2013 before this Court and the same was also dismissed in April, 2013 which has become final holding that the petitioner was put into possession by the Court Ameen. As such, there is no injunction operating against the subject property. But, the 3rd respondent without considering the aforesaid facts rejected the application of the petitioner for grant of pattadar pass books and title deeds, erroneously. He also submits that before passing the impugned order no notice was issued.

On the other hand learned counsel appearing for respondents 4 and 5 submits that they have purchased the subject property under registered sale deeds on 28.08.2004 after obtaining encumbrance certificate and that the mortgage in favour of bank was not reflected in the encumbrance certificate. He further submits that since the appeal filed by the respondents 4 and 5 in AS.No.98/2012 is pending, the revenue authorities rightly rejected the application of the petitioner. He also relied on the Judgments rendered by this Court in ***Bimidi Yella Reddy v. Joint Collector-II, Ranga Reddy District and others***¹.

In this case it is to be seen that admittedly the Bank filed OS.No.103/2001 and obtained preliminary decree on 13.06.2003 against the loanee and subsequently final decree was passed on 14.07.2004. Thereafter, the Bank filed EP.No.165/2005 in OS.No.103/2001 and brought the mortgaged property for sale. Thereafter auction was conducted by the Court and the petitioner participated in the said auction and was declared as successful bidder, and the sale has been duly confirmed by the Court on 26.02.2007, and a sale certificate was also issued to the petitioner on 09.03.2007 and possession was delivered to the petitioner on 19.10.2009. Though, 4th respondent filed EA.No.813 of 2009, the same was dismissed by order dated 28.02.2012. Though AS.No.98/2012 filed by the unofficial respondents is pending, the injunction

¹ 2008 (4) ALT 45

petition filed in the said AS is also dismissed by the I Additional District and Sessions Judge, West Godavari, Eluru on 04.10.2012 which was confirmed by this Court in CMA.No.53/2013. As on today, there is no injunction operating against the subject land and the appellate Court as well as this Court in the injunction application filed by the petitioners clearly held that possession was delivered to the petitioner by the Court Amin and refused to grant injunction in favour of unofficial respondents.

In view of the above facts and circumstances, the rejection order dated 07.10.2015 passed by the 3rd respondent rejecting to issue pattadar pass books and title deeds in favour of petitioner is set aside and the 3rd respondent is directed to issue pattadar pass books and title deeds. However, issuance of pattadar pass books and title deeds will always be subject to orders in AS.No.98 of 2012 which is pending on the file of I Additional District and Sessions Judge, West Godavari District, Eluru.

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

As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY, J

28.03.2017

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