

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.17785 OF 2004

ORDER:

Heard the learned counsel for the petitioners; the learned Assistant Government Pleader for Revenue appearing for respondents 1 to 3; and Sri Shaik Mohammad, learned Standing Counsel for Wakf Board, appearing for respondent No.4.

2. The present Writ Petition came to be filed with the following prayer:

“...to issue a Writ of Mandamus or any other appropriate Writ, Order or Direction directing the respondent No.3 herein to issue pattadar Passbooks in favour of the Petitioners herein by following the procedure contemplated under A.P.Rights in Land and Pattadar Passbooks Act, forthwith for the lands situated in Sy.No.694 & 705 of Sirivella Village and Mandal, Kurnool District, by declaring the proceedings issued by the 1st respondent herein in Rc.No.E8/1015/2003, dated 22-07-2003 and consequential issuance of pattadar pass books in favour of 4th respondent herein as arbitrary, illegal and unconstitutional.”

3. The averments in the affidavit filed in support of the writ petition would show that one Mohd. Khasim @ Jhani Saheb was the original owner of the land admeasuring Ac.48.40 cents in Sy.No.705 and Ac.27.56 cents in Sy.No.694 of Sirivella Village and Mandal and his name was incorporated in Inam Fair Register, 1861. After his death, his legal heirs alienated the property to third parties in the year 1931 under different registered sale deeds. It is said that vendors of the petitioners purchased the same from the legal heirs

of Mohd. Khasim and their names were also mutated in the revenue records. Sine then, they have been in possession and enjoyment of the property. While things stood thus, in the year 1969, Wakf Board filed Original Suit No.32 of 1969 before the Additional Subordinate Judge, Kurnool, for recovery of possession of the land in Sy.Nos.694 and 705 and other survey numbers. After considering the entire material on record, the said suit was dismissed on the ground of limitation. The father of the 1st petitioner was a party to the suit as defendant No.14. It is said that though the petitioners were in possession of the property, the revenue authorities failed to issue pattadar passbooks and title deeds. As there was no response, petitioners herein got issued a legal notice dated 07.03.2001 to the respondents requesting him to issue pattadar passbook in their favour. On an application made by the Wakf Board, the 2nd respondent called for the report from the 3rd respondent, who in turn informed about the suit and the orders passed therein. The District Collector – respondent No.1 is said to have addressed a letter to the Chief Executive of the Wakf Board informing about the possession, more particularly with regard to Gazette notification and also about the dismissal of the suit filed by them. He further informed them that the pattadar passbooks and title deeds have to be given in favour of Wakf Board by the MRO. Though, the said letter was addressed to the Chief Executive, the Mandal Revenue Officer is said to have issued pattadar passbooks and title deeds in favour of the Wakf Board, basing on the said letter. Challenging the said letter, the present writ petition is filed.

4. Though various grounds are raised in the writ petition, the learned counsel for the petitioners would submit that since the petitioners are in possession of the land prior to date of publication of Gazette and that these petitioners have purchased the lands through registered sale deeds and as they are in possession of the property, it is urged that the petitioners are entitled to pattadar passbooks and title deeds as per Rule 23(6) of the Andhra Pradesh Rights in Land and Pattadar Pass Books Rules, 1975. He further submits that in any event, the petitioners are at liberty to make a fresh representation before the Mandal Revenue Officer, seeking issuance of pattadar passbooks and title deeds as they are in possession of the property, hence, petitioners seek a direction for making a fresh representation.

5. Learned Standing Counsel for Wakf Board would submit that since the lands are recorded in the Gazette as their property and since there is a dispute over the title, petitioners have to approach the Tribunal constituted under the Wakf Act or file a suit as contemplated under Section 8 of the Act. It is said that without there being any right or title over the property, the question of issuing pattadar passbooks and title deeds would not arise. On the other hand, he submits that as the pattadar passbooks and title deeds were already issued, nothing survives for adjudication in the writ petition.

6. It is to be noted here that there was a Gazette publication with regard to the said property in the year, 1963. Much prior to

the same, the petitioners and the fore-fathers of the petitioners have purchased the property and they are said to be in possession of the same even as on today. The impugned proceedings, which are now sought to be questioned, is only a letter said to have been addressed by the Collector to the Wakf Board. The operative portion of the order is not clear as to whether any direction was given to the Mandal Revenue Officer, Sirivalle Village, to issue pattadar Passbooks and title deeds in favour of the Wakf Board. On the other hand, it indicates that the Pattadar Passbooks and title deeds have to be obtained from the MRO.

7. Be that as it may, having regard to the fact that the petitioners claim to be in possession of the property, the Writ Petition is disposed of directing the petitioners to make a representation afresh before the MRO, Sirivalle Village and Mandal seeking issuance of pattadar passbooks and title deeds, in which event, the said authority, after considering the objections of the Wakf Board and aggrieved party, if any, and also taking into consideration the material and documents available on record, shall deal with the same, in accordance with law, as early as possible preferably within period of six (06) weeks from the date of receipt of a copy of this order.

Miscellaneous Petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

JUSTICE C. PRAVEEN KUMAR

Date:02.08.2017

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