

HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.32556 OF 2013

ORDER:

Heard Mr.Ravi Cheemalapati for petitioners and the Assistant Government Pleader (Revenue) for respondents.

The issue arises under the A.P. Rights in Land and Pattadar Passbooks Act, 1971 (for short 'the Act').

The 5th respondent issued pattadar passbook/title deeds as follows:

Sl. No.	Survey No.	Extent	Name of the PPB Holder
1.	11/3	0-04	Viswanadha Subbarao
		0-23	Viswanadha Suryanarayanamurthy
		0-05	Viswanadha Seetaramamurthy
		0-18	Meda Chinappadu
2.	11/17	0-21½	Chodipalli Bandiyya
		0-07½	Chodipalli Kodandaraao
3.	126/4	0-79	Gugilla Divya
			Giggilla Ramani

The 6th respondent questioning the mutation or issuing pattadar passbook, as noted above, filed appeal before 4th respondent. The 4th respondent in appeal Rc.No.358/07/C dated 06.02.2010 allowed the appeal by recording the following findings:

“I have carefully examined the matter with reference to the documentary evidence placed before me by the counsel for respondent. Heard arguments. Sufficient opportunity is afforded to the respondents 1, 2, 3, 4, 5, 6, 7. The respondents not produced any link documents to the above schedule land in S.Nos.11/3, 11/17 and 126/4 of Sangivalasa Village of Bheemunipatnam mandal from the original pattadars. The respondents have failed to produce relevant recorded evidence before this Court. Therefore the PPB/TD issued for the schedule land to

Sri Viswanadha Suryanarayanamurthy, Viswanadha Seetaramamurthy, Sri Viswanadha Subba Rao, Meda Chinnappadu, Chodipalli Bandiyya, Chodipalli Kodandaraao, Guggilla Divya, Guggilla Ramana in S.No.11/3 measuring an extent of Ac.0-50 Cts, S.No.11/17 measuring an extent of Ac.0-29 Cts, S.No.126/4 measuring an extent of Ac.0-79 Cts of Sangivalasa Village of Bheemunipatnam Mandal vide PPB/TD No.37/120813, 99/120848, 100/120849, 248/121964, 464/458096, 465/458092, 509/476491, 510/476490 of Bheemunipatnam Mandal need to be cancelled under misrepresentation of facts placed before this Court.

The matter was reserved for orders on 30.1.2010. In the mean while, the respondent No.6 and 7 filed an affidavit to re-open appeal. The matter went on several adjournments for more than a year. Though sufficient opportunities are given, the respondent again requested to reopen the case with a view to drag on the case further. I am not inclined to reopen the case when the matter is under reserved for orders. Therefore, their affidavit for reopen is not maintainable under law.

In the above circumstances, I hold that the PPB/TD No.37/120813, 99/120848, 100/120849, 248/121964, 464/458096, 465/458092, 509/476491, 510/476490 are hereby cancelled and the case is remanded to Tahsildar, Bheemunipatnam to conduct fresh enquiry and to issue PPB/TD to the eligible persons according to ROR Act, 1971.

A revision against this order shall lie before the Joint Collector, Visakhapatnam within 30 days from the date of receipt of this order”.

The petitioners herein filed revision under Section 9 of the Act before 3rd respondent. The 3rd respondent after examining the record of rights and rival claims dismissed the revision.

Now, the only point argued by Mr. Ravi Cheemalapati is that the order impugned in the writ petition is passed without full-fledged trial and enquiry, but recorded several findings on right, title and

entitlement of parties to the subject matter of the writ petition. In other words, the contention is that the maintenance of revenue record firstly is based on *prima facie* case, as per the procedure stipulated by the Act. The consideration if involves dispute on the right, title etc., between rival claimants, the maintenance of revenue record is in accordance with the application under Section 8(2) of the Act. Therefore, at any given point of time, the rights of petitioners on the documents on which there are relying upon shall not be prejudiced by the orders of the revenue authorities. The learned counsel confined the submission to the point noted above, for the scope of judicial review under Article 226 of the Constitution of India is well established and this Court at any rate cannot re-appreciate each one of the circumstances and record finding independent of the findings recorded by Joint Collector and the Revenue Divisional Officer.

As the petitioners could not satisfactorily plead and prove a ground for interference, this Court has no option except to dismiss the writ petition. The scheme under the Act, particularly the scope and object of Section 8 of the Act, are well established. The petitioners if are entitled to an enforceable right or adjudication by a Civil Court, they can always work out their remedies by instituting suit. Finally, the maintenance of record of rights is as per the judgment and decree of the Civil Court.

With the above observations, the writ petition is dismissed. There shall no order as to costs.

Consequently, pending miscellaneous petitions, if any, also stand disposed of.

19th July, 2017

Lrkm

S.V.BHATT, J

