HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.No.16036 of 2004

ORDER

Heard learned counsel appearing for the petitioners, learned Government Pleader for Revenue appearing for respondents 1 and 2, and learned counsel appearing for respondents 3 to 11.

The petitioners are brothers and sons of late P.Muthaiah, who is the absolute owner and possessor of the land admeasuring Ac.13.21 guntas in Sy.No.185 and Ac.3.00 in Sy.No.184, totaling to Ac.16.21 guntas situated at Ravulapalli Village, Suryapet Taluq, Nalgonda District. But, in the revenue records, the name of one K.Vimala Bai was wrongly entered. When the said Vimala Bai was interfering with the peaceful possession of the said Muthaiah, he filed O.S.No.225 of 1975 on the file of the District Munsif, Suryapet, for declaration of title, perpetual injunction and rectification of wrong entries in Record of Rights. The said suit was decreed on 31.03.1975 in favour of father of the petitioners. After the death of their father, the petitioners succeeded the property. While so, the un-official respondents filed O.S.No.91 of

1993 on the file of the Junior Civil Judge, Suryapet, for perpetual injunction and the same was dismissed *vide* judgment dated 08.11.1996. Based on the decree obtained in O.S.No.225 of 1975, dated 31.03.1975, the petitioners submitted an application to the Mandal Revenue Officer for correction of entries. After conducting enquiry, the Mandal Revenue Officer, Tungaturthi Mandal, issued 13-B certificate on 12.3.1993 under the A.P. Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act') and the Rules made thereunder. Aggrieved by the same, the un-official respondents filed an appeal before the 2nd respondent-Revenue Divisional Officer, Nalgonda, who *vide* order dated 12.3.1996 cancelled the said certificate issued in favour of the petitioners. Challenging the same, the petitioners filed a revision before the 1st respondent-Joint Collector and the same was dismissed on 14.7.2004 confirming the order of the 2nd respondent. Hence, the present writ petition is filed.

Learned counsel appearing for the petitioners submits that in view of Division Bench judgment of this Court in *M.B.Ratnam and* *others vs Revenue Divisional Officer, Ranga Reddy District and others,*[1] the appeal preferred by the un-official respondents before the 2nd respondent is not maintainable. He further submits that though the 1st respondent noted the purport of the said judgment, he did not follow the same and confirmed the order of the 2nd respondent erroneously and hence, the impugned order is liable to be interfered with.

There is no dispute that father of the petitioners filed O.S.No.225 of 1975 before the District Munsif Court, Suryapet, and the same was decreed and that O.S.No.91 of 1993 filed by the un-official respondents for perpetual injunction before the Junior Civil Judge, Suryapet, was dismissed on 8.11.1996. In pursuance of the decree passed in O.S.No.225 of 1975, the petitioners made an application before the revenue authorities for validation of sale/alienation under Section 5-A of the Act. After conducting enquiry, the Mandal Revenue Officer, issued 13-B certificate on 12.3.93 under the Act. Challenging the same, the un-official respondents preferred an appeal before the 2nd respondent, who, *vide* order dated 12.3.1996 cancelled the certificate issued by the

[1] 2003(1) ALD 826

Mandal Revenue Officer. Being aggrieved, the petitioners preferred revision before the 1st respondent-Joint Collector, Nalgonda.

It appears that in the appeal preferred before him, the 2nd respondent-Revenue Divisional Officer, observed that the then Revenue Divisional Officer, Nalgonda, *vide* order dated 19.6.1994, directed the Mandal Revenue Officer, Thungathruty, to re-enquire into the whole issue by giving an opportunity to both the parties and decide the matter afresh. Accordingly, the Mandal Revenue Officer, has re-enquired the matter by giving opportunity to both the parties and reported that the then Mandal Revenue Officer, Thungathruty has not followed the procedure laid down under the Act and issued the Validation Certificate in favour of the petitioners. Further, the petitioners have not taken any steps pursuant to the passing of decree for a period of 12 years. Based on the said report, the 2nd respondent cancelled the Validation Certificate *vide* order dated 12.03.1996. Hence, the petitioners filed a revision before the 1st respondent. The 1st respondent by observing that the procedure as contemplated under Section 5-A read with Rule 22 of the Act, was not followed, confirmed the order passed by the 2nd respondent.

In view of the concurrent findings recorded by respondents 1 and 2 with regard to violation of procedure, respondents 1 and 2 ought to have remanded the matter to the Mandal Revenue Officer, Thungathruty, in stead of cancelling the Certificate issued on 12.3.1993. On the face of decree obtained by the petitioners' father and dismissal of O.S.No.91 of 1993 filed by the unofficial respondents 3 to 11, the matter requires to be examined by the Mandal Revenue Officer, in accordance with law, after following the due procedure.

Accordingly, the impugned orders passed by respondents 1 and 2 are set aside and the matter is remanded to the Mandal Revenue Officer, Thungathurty, for passing fresh orders, in accordance with law, after giving due opportunity to the petitioners and respondents 3 to 11, within a period of six months from the date of receipt of a copy of this order.

The Writ Petition is allowed to the extent indicated above. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

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JUSTICE A.RAMALINGESWARA RAO

6th July, 2017
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