

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.41052 of 2016

ORDER :

It is the case of the petitioner that the petitioner belong to schedule tribe. He purchased an agricultural land to an extent of 0.38 gts in Sy.No.27/1, situated at Gudihathnoor Village, Adilabad District from one Khalid Ali Khan through Sada Sale deed dated 11.02.2013 by paying sale consideration. Since then petitioner is in possession of the said property; that the petitioner's vendor purchased the subject land from unofficial respondent through agreement of sale on 13.06.2002; that by taking advantage of the petitioner's vendor belongs to non-tribal, the unofficial respondent is trying to grab the property from the petitioner; that the 3rd respondent addressed a letter No.B/150/2016, dated 18.05.2016 to the 4th respondent, without giving an opportunity to the petitioner. Though the petitioner made representation dated 24.10.2016 to the 2nd respondent for issuance of pattadar pass books and title deeds, no action is being taken. Aggrieved by the same, present writ petition is filed.

Counter affidavit is filed by the 3rd respondent denying the averments in the affidavit filed in support of this writ petition stating that issue is pending before the Agency Divisional Officer and Revenue Divisional Officer, Adilabad. It is stated that one Smt.Kousalya Bai was the pattadar of the land to an extent of Acs.5.13 in Sy.No.27, situated at Gudihatnoor Village and Mandal of Adilabad District and her name is also recorded in

pahani for the year 1995-96. Subsequently, she sold away the land to an extent of Acs.3.34 out of 5.13 acres to one Sri Naitham Shankar of Talamadugu Mandal, Adilabad District in the year 2000 vide sale deed No.410/2000, dated 09.10.2000. The Tahsildar, Gudihathnoor has issued pattadar pass book bearing No.423944. It is stated that the subject land was sold twice through un-registered sale deeds, which are invalid and void. It is stated that in the Agency Suit filed by Naitham Shankar against Khalid Ali Khan, before the Agency Divisional Officer, the Revenue Divisional Officer, Adilabad District had passed an *exparte* injunction order in Case No.A/94/2013, dated 16.01.2013 restraining Khalid Ali Khan and his men from interfering into the suit land in Sy.No.27/1 to an extent of Ac.0.38 guntas of Gudihatnoor Village and Mandal, Adilabad District. Hence, the request of the petitioner for issuance of pattadar pass book and title deed was not considered and sought for dismissal of the writ petition.

The 5th respondent filed counter affidavit reiterating the averments in the counter affidavit of 3rd respondent stating that Sri Khalid Ali Khan, who is said to be vendor of the petitioner has no title over the subject land and that he created fabricated documents and sold the subject property. It is stated that said Khalid Ali Khan along with petitioner is trying to grab the subject land. It is stated that the subject matter is already subjudice with the Agency Divisional Officer-cum-Revenue Divisional Officer and sought for dismissal of the writ petition.

Heard learned counsel for the petitioner, learned Assistant Government Pleader for Revenue and Sri S.Raj Kumar, learned counsel for the 5th respondent.

In this case, admittedly, the petitioner's vendor claims to have purchased through agreement of sale on 13.06.2002. Petitioner also purchased the subject land through sada sale deed dated 11.02.2013 from one Khalid Ali Khan, who in turn purchased said land from 5th respondent on 13.06.2002 through sada sale deed. However, the 5th respondent has denied the said averment in the counter affidavit.

Admittedly, the issue in the present writ petition is pending before the Agency Divisional Officer and Revenue Divisional Officer, petitioner has not disclosed the same in the writ affidavit. The petitioner has suppressed the factum of pendency of agency suit before the Agency Divisional Officer.

Now, the learned counsel for the petitioner states that the issue in the subject matter is pending before the 2nd respondent and a direction can be issued to the 2nd respondent to dispose of the pending Agency suit before the 2nd respondent. He also submits that in pursuant to proceedings dated 18.05.2016, petitioner also approached the 2nd respondent and issue is pending before the 2nd respondent. In view of the same, no relief can be granted to the petitioner in the writ petition.

Since, already issue is pending before the 2nd respondent in pursuant to proceedings Lr.No.B/150/2016, dated 18.05.2016 addressed by the 3rd respondent, the 2nd respondent is directed to

conclude the proceedings pending before him, after issuing notice to both parties, in accordance with law.

With the above direction, this writ petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in this writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

07.02.2017

kvs



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