HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITON No.34035 of 2016

ORDER:

The case of the petitioner is that his father originally having land to an extent of Ac.09-92 cents in Sy.Nos.171/14, 181, 180/3, 180/2 and 185/7 situated at Tarluvada Village, Anandapuram Mandal, Visakhapatnam District and after his demise, the petitioner succeeded the same and name of his father was recorded in revenue records as pattadar and possessor of the said land. The petitioner is permanent resident of Vijayawada and used to attend agricultural operations at Visakhapatnam. Meanwhile, the unofficial respondents 6 to 9 managed the revenue authorities and obtained pattadar passbooks and title deeds in their names. The petitioner approached the District Collector to conduct enquiry vide letter dated 23-09-2008, on which the Tahsildar conducted enquiry and inspected the lands and found that the unofficial respondents obtained pattadar passbooks and title deeds in their favour without any documentary evidence and the petitioner filed appeal before the 3rd respondent-Revenue Divisional Officer (R.D.O) vide ROR Appeal No.4493/2009, wherein the R.D.O. after enquiry ordered for cancellation of pattadar passbook and title deeds issued in respect of subject land and remanded the matter to the Tahsildar, Anandapuram to re-enquire into all aspects and the said appeal was allowed by order dated 07-06-2014. Challenging the said order, the unofficial respondents 6 to 9 filed revision before the Joint Collector-4th respondent and the 4th respondent passed interim order dated 26-09-2015, wherein directed the Tahsildar-5th respondent to consider the claim of the respondents 6 to 9 and pass orders as per order of R.D.O. Without waiting for enquiry report of the Tahsildar, straight away the Joint Collector-the 4th respondent passed the impugned order dated 15-09-2016 setting aside the order of R.D.O. Aggrieved by the same, the present writ petition is filed.

Counter is filed by the 8th respondent stating that the subject property was purchased by M/s.Mohsin Brothers represented by the 8th respondent to an extent of Ac.06-69 cents in Sy.Nos 180/1, 180/2, 180/3, 180/4 and 180/5 vide registered sale deed No.1477/1988 and thereafter, an extent of Ac.0-53 cents was purchased from Mr.Bobbili Rama Rao and Golagana Narasinga Rao on 17-05-1988 vide registered sale deed No.1123/89. Thereafter Ac.0-46 cents of the subject property was purchased by Mohsin Frozen Agro Products Private Limited represented by 8th respondent vide registered sale deed No.2576/1997, dated 01-10-1997 and Ac.0.715

cents was purchased by Mohsin Frozen Agro Products Private Limited from M/s.Mohsin Brothers on 02-03-1998 vide registered sale deed No.349/1998. It is further stated that M/s.Mohsin Frozen Agro Products Private Limited further got an extent of Ac.0.06 cents in Sy.No.187/17 in Tarluvada Village, Anandapuram Mandal, Bheemunipatnam Sub-District, Visakhapatnam District from Mr.Dantuluri Sanyasi/Suryanarayana Gajapathi Raju vide registered sale deed No.541/98, dated 27-03-1998. On application of the 8th respondent, the Tahsildar mutated their names in revenue records and directed the authorities to make necessary changes vide proceedings dated 19-07-1984. On the application of the 8th respondent, the Chairman, HUDA accorded approval for construction of factory vide proceedings dated 29-07-1985 and the 8th respondent also purchased part of the subject property on 08-07-1983 and 17-05-1988 vide registered sale deed Nos 1477 of 1983 and 1123 of 1988 to an extent of Ac.6-69 and Ac.0-53 cents respectively. It is also stated that the 4th respondent after examining the various records passed the impugned proceedings holding that the 8th respondent is in possession of part of the subject land.

The 9th respondent also filed counter stating that he has purchased land to an extent of Ac.0-41 cents in

Sy.No.183/2, an extent of Ac.3-10 cents in Sy.No.183/3 and an extent of Ac.0-59 cents in Sy.No.185/17 vide registered sale deed bearing Document No.1613 of 1986 dated 18-06-1986 from one Maganti Venkateswar Rao in turn, had purchased the said lands from one Smt.Patnana Bullemma @ Chinnamma under a registered sale deed bearing Doc.No.2582 of 1982, dated 30-12-1982. The petitioner has also alienated an extent of Ac.0-41 cents in Sy.No.183/2 and another extent of Ac.1-94 cents in Sy.No.183/3 to one Katneni Anand vide registered sale deed bearing document No.441 of 2008, dated 26-02-2008 and the 9th respondent is owning land admeasuring Ac.2-16 cents after selling some part of the land.

Learned counsel for the petitioner submits that the respondents 6 to 9 without valid entitlement got title deeds and pattadar passbooks. Basing on the application of the petitioner, the Tahsildar on enquiry found that the respondents 6 to 9 obtained pattadar passbooks and title deeds without any valid entitlement and submitted report and recommended to the R.D.O. for cancellation of pattadar passbooks issued in favour of respondents 6 to 9. Subsequently, the petitioners have filed appeal before the R.D.O. who allowed the appeal. But the revisional authority without going into the factual aspects allowed the revision, which is erroneous.

On the other hand, learned counsel appearing for the 8th respondent submits that the factory was established in the year 1985 by obtaining permission for conversion of agricultural lands into non-agricultural lands and VUDA also granted permission and the factory was existing since long time. The petitioner by suppressing the said fact obtained interim orders.

On the other hand, learned counsel appearing for the 9th respondent submits that the R.D.O. could not have entertained the appeal after long lapse of time and the 9th respondent obtained pattadar passbooks and title deeds in the year 1996. In the entire order passed by R.D.O., dated 07-06-2014 there is no mention about the limitation aspect, though under Section 5 of the A.P.Rights in Land and Pattadar Pass Books Act, the aggrieved party has to prefer the appeal within a period of (60) days and submits that against the orders of mutation passed in favour of the 9th respondent, the aggrieved party could file appeal but he cannot approach the Tahsildar for amendment of the same. He also submits that the R.D.O. has no power to cancel the pattadar passbooks and title deeds and grant of pattadar passbooks and title deeds is consequential act by relying on the judgment of **Ratnamma v. Revenue Divisional Officer, Ananthapur District**[1].

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[1] 2015(5) ALT 228 (D.B.)

In this case, it is to be seen that the fact that the 9th respondent was granted pattadar passbooks and title deeds in the year 1996 is not disputed and the 8th respondent also obtained pattadar passbooks and title deeds in the year 1994 and they have constructed factory. It was also noticed by the 4th respondent while passing the impugned orders. It is stated that the respondents 6 to 9 have filed appeal against the same. In the proceedings dated 20-1-2009 the Tahsildar clearly stated that the persons, who obtained pattadar passbooks produced documentary evidence and also observed that pattadar passbooks were granted long back and rejected the claim of the petitioner. It is not known how the R.D.O. passed the orders without considering the same.

Section 5 (5) of the Act reads as follows:

> " Against every order of the recording authority either making an amendment in the record of rights or refusing to make such an amendment, an appeal shall lie to the Revenue Divisional Officer or such authority as may be prescribed, within a period of sixty days from the date of communication of the said order and the decision of the appellate authority thereon shall subject to the provisions of Section, be final."

It clearly shows that the appeal should be filed within (60) days. More so, in this case the 8th respondent has established the factory and the petitioner feigns ignorance of the same and filed this writ petition. The claim of the petitioner is rightly rejected by the Tahsildar dated 20-01-2009. The revisional authority after conducting hearing clearly found that the appeal is filed after 20 years. The R.D.O. also found that the agricultural land was converted into non-agricultural land and also found subsequent transactions in respect of the subject land and also found that the 8th respondent established factory about 30 years ago. The Division Bench of this Court in the judgment cited supra held that the R.D.O. has no power to cancel the pattadar passbooks and title deeds, since grant of pattadar passbook and title deed is consequential act.

In view of the same, the writ petition is devoid of merits and accordingly the same is dismissed. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

06-02-2017
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