THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.40089 OF 2015

ORDER:

Heard the learned counsel for the petitioners; the learned Government Pleader for Revenue appearing for respondents 1 to 4 and Sri N.Bharat Babu, learned counsel for respondents 5 to 7.

2. The present writ petition, under Article 226 of the Constitution of India, came to be filed seeking the following relief:

> "……to issue a Writ of Mandamus or any other appropriate Writ or direction declaring the order passed by the 3rd respondent in Proceedings No.D.Dis(H)/717/2014 dated 05.08.2015 and the order passed by the 4th respondent in Proceedings D.Dis.(D)/398/2015 dated 07.11.2015, as illegal, arbitrary and without jurisdiction and set aside the above orders passed by respondents 3 and 4."

3. The averments in the affidavit filed in support of the writ petition would show that the land admeasuring Ac.0.66 cents in Sy.No.187/2 and Ac.0.64 cents in Sy.No.185 of Pudipatla Village, Tirupathi Rural Mandal, was purchased by the father of the 1st petitioner under two registered sale deeds dated 12.02.1922 and 22.01.1924 respectively. In partition of joint family properties, 1st petitioner was allotted Ac.0.66 cents in Sy.No.187/2 and his brother was allotted Ac.0.64 cents in Sy.No.185. In the year 1976, his brother relinquished his rights in Sy.No.185. Subsequently, the 1st petitioner executed a gift deed in respect of the land in Sy.No.187/2 in favour of his son i.e., 2nd petitioner herein, whose name was mutated in revenue records and pass book and title deed were issued in his favour in the year, 2011.

Out of Ac.0.66 cents, 2nd petitioner sold Ac.0.43 ¼ cents to the 4th petitioner herein and he was also issued pattadar passbook and title deed on 12.09.2012. The 1st petitioner bequeathed house bearing D.No.4-100 admeasuring 448 square yards in Sy.No.185 to his grandson, the 3rd petitioner herein, vide gift deed dated 28.08.2008.

4. While the matter stood thus, respondents 5 to 7 preferred an appeal before the 3rd respondent, Revenue Divisional Officer, Tirupati, on 26.12.2013 for cancellation of pattadar passbook and title deed dated 22.07.1995, in respect of Sy.Nos.185 and 187/2, issued in favour of the 1st petitioner on the ground that the said two survey numbers are joint family properties and they have half share in the said lands and also requested for issuance of pattadar passbook and title deed in their favour. The 3rd respondent allowed the said appeal, set aside the entries made in pass book and title deed and directed the 4th respondent-Tahsildar, Tirupati Rural, to take up fresh enquiry on the claims of the family members and carry out changes in all the revenue records. Challenging the same, the petitioners filed revision before the 2nd respondent-District Collector. The 2nd respondent admitted the revision and issued notices to respondents 3 and 4 on 28.10.2015. While so, the 4th respondent, by an order dated 07.11.2015, cancelled the pattadar pass books and title deeds issued in favour of the petitioners and partitioned the land in question between the petitioners and respondents 5 to 7. Challenging the same, the present writ petition came to be filed.

5. By an order dated 10.12.2015 this Court issued notices and ordered *status quo* existing as on the said date.

6. A counter came to be filed by respondents 5 to 7 denying the averments made in the petition.

7. The interim order passed by this Court on 10.12.2015 reads as under:

> "Apparently, petitioners have already filed Revision against the orders of the Revenue Divisional Officer (RDO), dated 05.08.2015, Ex.P2, which is pending before the District Collector, second respondent, and the District Collector had already seems to have called for records from the RDO and the Tahsildar as early as on 28.10.2015. Meanwhile, the fourth respondent passed the impugned order, Ex.P1, giving effect to the impugned order in the Revision.
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> Hence, issue notice before admission.
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> Learned Assistant Government Pleader for Revenue takes notice and seeks time to get instructions.
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> Petitioners shall serve respondent Nos.5 to 7 intimating the next date of hearing before this Court as 21.12.2015 by RPAD and file proof of service.
>
> List on 21.12.2015 in the motion list.
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> Pending further orders, *status quo*, as existing as on today, with regard to the entries in the revenue record including the web entries shall be maintained."

A perusal of the material placed before the Court would show that subsequent to the interim order passed by this Court on 10.12.2015, the Joint Collector, Chittoor, vide his order dated 23.05.2016 in D.Dis.D4/6513/2015, dismissed the revision filed by the petitioners herein, confirming the orders of the RDO. Such being the position, nothing survives for adjudication in this writ petition on merits. The petitioners may either challenge the order of Tahsildar by preferring a revision or question the order of Joint Collector, dated 23.05.2016.

8. Having regard to the above, this Writ Petition is disposed of giving liberty to the petitioners to avail remedies, if any, available under law, in which event, the same shall be dealt with, in accordance with law. Enabling the petitioners to avail the remedies under law, *status quo* as on today to be maintained with regard to possession and entries for a period of four (04) weeks from today.

Consequently, Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

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JUSTICE C. PRAVEEN KUMAR

Date:17.04.2017
Note: Furnish CC within two (02) days
(B/O)
INL