

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.15361 of 2009

ORDER:

Heard learned counsel for the petitioner and learned counsel for unofficial respondents.

2. The present Writ Petition came to be filed seeking issuance of writ of mandamus declaring the order dated 07.03.2009 passed in case No.D1/ 21/ 2003 and file No.D1/ 5545/ 2003 on the file of the second respondent, order dated 04.10.2003 passed in file No.B/ ROR/ 3921/ 2000 on the file of the third respondent and the order dated 23.11.2000 passed in ROR/ 308/ 99 on the file of the fourth respondent, as illegal, arbitrary, without jurisdiction and contrary to the provisions of A.P. Rights in Lands and Pattadar Passbooks Act, 1971 (for short, 'the Act').

3. Sri K.Raghuveer Reddy, learned counsel for the petitioners would submit that the impugned order dated 23.11.2000 in ROR/ 308/ 99 came to be passed without hearing the first petitioner. It is his case that without giving any notice, the property is registered in the name of unofficial respondents. He submits that there is clear violation of Rule 22(1), (2) and (3) of the Act. Non compliance of these provisions lead to filing of the writ petition.

4. On the other hand, Sri K.Ananda Rao, learned counsel for unofficial respondents submits that the fifth respondent purchased the property in the year 1975 and thereafter an application came to be filed for regularization of sale. It is his case that the petitioner never participated in any proceedings inspite of giving an opportunity and as such, the order under challenge needs no interference by this Court.

5. As per Rule 22(2) of the Act, the alienee or transferee shall file application in Form X on or before 31.03.2008 on the notification issued

under sub-rule (1), to the Mandal Revenue Officer, provided - (a) that the alienation/transfer took place before 31.12.2000 and not agricultural lands located in urban areas covered by mandal Head Quarters, District and State Head Quarters and Municipalities, Municipal Corporations and Urban Agglomerations, (b) the alienation/transfer is regarding agricultural land in rural areas; and (c) the transferee/ alienee is a small/ marginal farmer. Even under Rule 22(3) when an application is received under sub-section (2) of Section 5-A of the Act, the M.R.O. shall issue notice to the alien or transferor in Form No.XI specifying therein the date on which and the time at which he proposes to enquire into the application.

It is to be noted that though the unofficial respondents claim to have purchased the property in the year 1975, no steps have been taken by them for regularization of sale for nearly 23 years. No reasons are forthcoming as to why they kept quiet for such a long time. The official respondents have also not filed any counter to ascertain as to whether any notice has been issued, and procedure under Rule 22(1)(2)(3) of the Act has been followed. It is not in dispute that the petitioners did not participate in any of the proceedings inspite of giving number of opportunities to them. It appears that the petitioners did not participate before the Joint Collector as well. Since the issue involves number of complicated questions of fact, it would be just and proper if the matter is remanded back to the Joint Collector to decide the issues raised herein and pass appropriate orders at the earliest, in accordance with law. The same is not seriously opposed by the learned counsel for the unofficial respondents.

6. Since no record is produced and no counter is filed by respondent Nos.1 to 4 inspite of taking time and having regard to the issues raised herein, the writ petition is disposed of, remanding the matter back to the second respondent - Joint Collector, Mahaboobnagar, who shall hear the petitioners as well as the unofficial respondents by fixing a date and then

pass appropriate orders, in accordance with law, within a period of four weeks thereafter. The petitioners as well as the unofficial respondents shall invariably appear on the date fixed by the Joint Collector. Till such time *status quo* as on today shall be maintained.

Miscellaneous petitions, pending if any, shall stand closed in the light of this final order. There shall be no order as to costs.

JUSTICE C. PRAVEEN KUMAR

10.04.2017
vnb

