

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

WRIT APPEAL No.182 OF 2017

JUDGMENT: (Per Hon'ble The Acting Chief Justice Ramesh Ranganathan)

Heard the learned Government Pleader for Revenue, appearing on behalf of the appellants, and Sri Ch. Samson Babu, learned counsel for the respondent-writ petitioner.

This Appeal, under clause 15 of Letter Patent, is preferred against the order passed by the learned Single Judge in Writ Petition No.22701 of 2014 dated 17.03.2016. The respondent herein filed the writ petition seeking a *mandamus* to declare the action of the respondents therein (appellants herein) in not taking action on the petitioner's application dated 26.05.2014 for rectification/mutation of the Revenue records, and for issuance of pattadar passbook and title deeds under Section 4 of the A.P. Rights in Land and Pattadar Passbooks Act, 1971 pertaining to the subject lands, as arbitrary and illegal.

In the order under appeal, the learned single Judge noted the petitioner's grievance that, after purchasing the subject lands, she had applied, on 26.05.2014, to the Tahsildar for issuance of a pattadar passbook and title deeds but no action was taken. The learned single Judge also noted the contents of the counter-affidavit filed by the respondents that the subject land was surplus land under the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (for short, 'the Act of 1973'); the petitioner had been declared as such under the provisions of the said Act on a declaration filed by one Devu Veerabhadra Rao, who

was the father of Sri Devu Kondala Rayudu - the vendor under the sale deed executed in favour of the petitioner; and that possession of the land was taken on 18.09.1997. On a perusal of a copy of the order passed in Civil Revision Petition No.33 of 1998 dated 02.02.2001, whereby the earlier order dated 17.09.1997 was set-aside and the matter was remanded to the Land Reforms Tribunal, Kakinada, for fresh enquiry, and on taking note of the submission urged on behalf of the respondent-writ petitioner herein that, subsequent thereto, a fresh order was passed by the Tribunal in L.C.C. No.1023/Kakinada/75, dated 29.08.2012 wherein Sri Devu Kondala Rayudu, vendor of the petitioner, had surrendered the land in other survey numbers while retaining Ac.10-00 cents of land in Survey No.198 of Karapa village, the learned single Judge faulted the appellants herein in failing to advert to the order in C.R.P. No.33 of 1998 or the order dated 28.09.2012.

While holding that the stand of the appellants-respondents, that the land bought by the petitioner did not come under the ceiling laws, could not be countenanced, the learned single Judge allowed the writ petition directing the Tahsildar to consider the petitioner's application dated 26.05.2014, for mutation of her name in the revenue records for issuance of pattadar passbook and title deeds in her favour, within four (4) weeks from the date of receipt of a copy of the order. The learned single Judge also directed the District Collector, East Godavari, and the Principal Secretary, Revenue Department, to take action against the Tahsildar and the Revenue Divisional Officer for suppressing facts in the counter-affidavit regarding the order passed in C.R.P. No.33 of 1998, and for filing a misleading counter.

The fact that no reference is made in the counter-affidavit to the order passed in C.R.P. No.33 of 1998 dated 02.02.2001 is not in dispute. The learned single Judge was, therefore, justified in directing the appellants 3 and 4 herein to take action against appellants 1 and 2 for filing a misleading counter-affidavit.

While a false or misleading counter-affidavit, filed by a public servant, would necessitate action being taken against him, that would not justify grant of relief of a pattadar pass book and title deeds being issued in respect of public property of Ac.10-00 cents which was found to be ceiling surplus lands by the Tribunal in its order dated 29.08.2012. If the subject lands are surplus lands, then they vest with the Government and would constitute public property. A copy of the order of the Land Reforms Tribunal dated 29.08.2012 is placed before us which records instructions having been issued to the Tahsildar to verify whether the alternative lands, proposed by Sri Devu Kondala Rayudu, the vendor of the respondent-writ petitioner and who, according to the learned Government Pleader, is the younger brother of the respondent herein, of an extent of Ac.10-00 cents as alternative lands, were in the possession of Sri Devu Kondala Rayudu or not; whether the lands were encumbered or un-encumbered; and to initiate strict necessary action, as per the provisions of the Act of 1973, to deliver possession only after taking possession of the land admeasuring Ac.10-00 cents which was proposed to be surrendered to the Government by the petitioner, and to submit a report to the Land Reforms Tribunal, Kakinada in the prescribed *pro forma* for taking further necessary action.

The submission of learned Government Pleader for Revenue is that, while the order of the Tribunal dated 29.08.2012 required the Tahsildar to deliver possession of the subject lands only after taking

possession of lands admeasuring Ac.10-00 cents, which was proposed to be surrendered to the Government by Sri Devu Kondala Rayudu, no such alternative lands were handed over to the Government; and, as such, the surplus ceiling lands of Ac.10-00 cents continue to vest with the Government.

Sri Ch. Samson Babu, learned counsel for the respondent-writ petitioner, would draw our attention to a document which is substantially illegible, and the date of which is also not discernible. The letter is addressed by the Tahsildar, Kakinada to the Additional Revenue Divisional Officer, Kakinada and refers to C.C.1023/K/75, dated 27.09.1976. According to Sri Ch. Samson Babu, this letter shows that the subject lands were offered by Sri Devu Veerabhadra Rao of Kapra as alternative lands in lieu of the subject lands. This, according to Sri Ch. Samson Babu, shows that alternative lands were handed over to the Government in lieu of surplus lands. Learned Government Pleader for Revenue would, however, contend that Sri Devu Veerabhadra Rao had died long prior to the order of the Tribunal dated 29.08.2012 and, it is only because he was no more, was his son Sri Devu Kondala Rayudu shown as the petitioner in L.C.C. No.1023 /Kakinada/75.

The question whether Sri Devu Kondala Rayudu had surrendered alternative lands, in lieu of Ac.10-00 cents of land taken by the Government as surplus lands from his father, has not been examined by the learned single Judge in the order under appeal. The attention of the learned single Judge does not also appear to have been drawn to the contents of the order of the Tribunal dated 29.08.2012.

We are satisfied that, without examining these matters, the respondent-writ petitioner's application, for issuance of pattadar passbook

and title deeds, could not have been directed to be considered. While we see no reason to interfere with the order of the learned single Judge, to the extent he directed appellants 3 and 4 to take action against the appellants 1 and 2 for filing a misleading counter-affidavit, the first direction issued by the learned single Judge to the appellants herein, to consider the petitioner's application for grant of pattadar passbook and title deeds, must be, and is accordingly, set-aside.

The order under appeal is set-aside, and the writ petition is restored to file. The learned single Judge shall consider whether the order of the Tribunal dated 29.08.2012 has been complied with; whether alternative lands were handed over to the Government in lieu of Ac.10-00 cents taken over by them; and, thereafter, pass an order afresh and in accordance with law.

The Writ Appeal is, accordingly, disposed of. As a sequel, pending miscellaneous petitions, if any, shall stand disposed of. No order as to costs.



RAMESH RANGANATHAN, ACJ

Dr. SHAMEEM AKTHER, J

Date: 13-02-2017.
DSH/SIVA

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(Judgment of the Division Bench delivered by
Hon'ble the Acting Chief Justice Ramesh Ranganathan)

Date. 13-02-2017

DSH/SIVA