THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.35482 OF 2014

ORDER :

This writ petition is filed seeking writ of mandamus declaring the orders passed by the 2nd respondent in file No.F3/249/2013-F3/6/ROR/13, dated 08.05.2014 under Section 9 of A.P.ROR Act, in respect of land in Sy.No.568/E, admeasuring Ac.5.22 gts restoring the name of the 5th respondent in relation to an extent of Ac.2.00 gts and consequential proceedings B1/1785/2014, dated 07.08.2014 issued by the 4th respondent implementing the same as illegal and arbitrary and consequently to set aside the same.

2. It is the case of the petitioner that she purchased an extent of Ac.3.33 gts in Sy.No.568 of Patiganpur, Patancheru Mandal, Medak District under registered sale deed vide document No.315/2000, dated 24.01.2000 from the 6th respondent-company, which was issued pattadar pass books and title deeds. The subject property was acquired by the 6th respondent Company by two different registered sale deed Nos.2941/1995, dated 27.05.1995 and 2775/1995 dated 28.05.1995. The vendors of the petitioner purchased the subject land with proper notices in news papers and the property was also fenced. That basing on the registered document No.315/2000, dated 24.01.2000, name of the petitioner was mutated in revenue records. Aggrieved by the entries in revenue records appeal was preferred by the 5th respondent before the 3rd respondent and the same was dismissed by the 3rd respondent vide

Lr.No.A3/3131/2007, dated 12.09.2011. The 2nd respondent taken up the revision suo-moto under Section 9 of the A.P.Rights in Land & Pattadar Pass Books Act, 1971 (for short 'the Act of 1971') against orders of the 3rd respondent dated 12.09.2011 and allowed the same by order dated 08.05.2014. Aggrieved by the same, present writ petition is filed.

3. Heard learned counsel for the petitioner, learned Assistant Government Pleader for Revenue for respondents 1 to 4 and Sri L.Prabhakar Reddy, learned counsel for the 5th respondent.

4. Learned counsel for the petitioner submits that the mutation in respect of subject land in favour of the predecessors in title of the petitioner was affected and they were issued pattedar pass books and title deeds. She submits that after long lapse of time, the 5th respondent preferred appeal before the 3rd respondent. She submits that the 3rd respondent entertained the appeal and dismissed the same on merits by holding that the 5th respondent had not produced any evidence regarding purchase made by him and also observed that the 5th respondent can approach the Civil Court to establish his title over the subject property. She would further contend that the 2nd respondent has erroneously suo-moto entertained the revision and passed orders. She submits that the mutation was done in favour of the vendors of the petitioner as well as in the name of the petitioner basing on the registered sale deeds, whereas the 5th respondent is claiming title basing on unregistered sale deed, which was not even regularized and not even produced before the authorities. She also submits that though the name of the father of 5th

respondent was not found in revenue records from 1991-1992, appeal was filed only in the year 2007 and the 2nd respondent could not have *suo-motu* entertained the revision and allowed the same. She also submits that the petitioner is not a party to the appeal and no notice was issued to her, though by the time revision is filed and her name was recorded in revenue records.

5. On the other hand, learned counsel for the 5th respondent submits that after the death of the father of the 5th respondent, the name of the 5th respondent was continued in revenue records and without issuing any notice, the name of the 5th respondent was deleted, which is in violation of Rule 22 of the A.P. Rights in Land & Pattadar Pass Books Rules, 1989. He submits that the 2nd respondent-Joint Collector has rightly allowed the revision by holding that there is violation of principles of natural justice. In support of his contention, he relied on the judgment reported in **Chinnam Pandurangam v. Mandal Revenue Officer, Serilingampally Mandal, Ranga Reddy District**[1]. He submits that the question before the authorities was whether the name of the 5th respondent can be deleted without issuing notice, as envisaged under Rule 22 of the Rules framed under the Act of 1971.

6. In this case, admittedly, the 5th respondent has not produced any documents executed by the so-called original owner, basing on which the petitioner purchased the same. Even according to the 5th respondent, it is only an unregistered sale deed and there is no assertion that the same is validated as per the provisions of the Act of 1971. Admittedly, the name of

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[1] 2007 (6) ALD 348 (FB)

the 5th respondent was deleted in the year 1991-1992 and appeal is filed in the year 2007. By which date, the subject land was purchased by the 6th respondent-company, through different sale deeds vide document Nos. 2941/1995, dated 27.05.1995 and 2775/1995 dated 28.05.1995 and the name of the 6th respondent was also entered in revenue records and pattadar passbooks and title deeds were issued in its favour, from whom the petitioner purchased the subject land vide registered document No.315/2000, dated 24.1.2000 and thereafter, the name of the petitioner was also entered in revenue records. It is relevant to note that in the appeal grounds before the 3rd respondent, no assertion is made by the 5th respondent as to why the appeal was filed in the year 2007, when his name was deleted in the year 1991-1992. In fact, the name of the 5th respondent was never recorded as pattedar. However, the 3rd respondent dismissed the appeal by holding that he can approach the Civil Court for deciding declaration of his title. Even the impugned proceedings go to show that *suo-motu* revision was entertained in the year 2013 and same was allowed. The 5th respondent has not questioned the registered sale deed executed by original owner from whom the petitioner also claims to have purchased the land. The authorities have effected mutation basing on the registered sale deeds executed by the original owner. It is not known as to why the 2nd respondent suo-moto entertained the revision when the 5th respondent has not filed any revision. Be that as it may, the 2nd respondent could not have gone into the disputed questions of fact while entertaining the revision *suo-motu* by setting aside the well reasoned order passed by the 3rd respondent. The revenue authorities are not expected to decide the disputed questions of fact and decide the rights of the parties. The Act of 1971 also provides for remedy of filing suit under Section 8(2) of the Act of 1971 and that the 3rd respondent has rightly dismissed the appeal filed by the 5th respondent observing that he may approach the Civil Court for declaration of his rights.

7. The judgment of Full Bench of this Court in **Chinnam Pandurangam v. Mandal Revenue Officer, Serilingampally Mandal, Ranga Reddy District (supra),** relied on by the learned counsel for 5th respondent is not applicable to the facts and circumstances of the case as discussed above.

In view of the facts and circumstances, the impugned order passed by the 2nd respondent in File No.F3/249/2013-F3/6/ROR/13, dated 08.05.2014 and consequential proceedings B1/1785/2014, dated 7.8.2014 passed by the 4th respondent are liable to be set aside and accordingly set aside.

Accordingly, this writ petition is allowed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, shall stand closed.

A.RAJASHEKER REDDY, J

04.01.2017
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HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No. 35482 of 2014

Date: 04.01.2017

kvs