HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.10375 OF 2017

ORDER:

This writ petition is filed challenging the proceedings No.A/3740/2015, dated 30.07.2016 passed by the 3rd respondent in the appeal filed by the petitioner under Section 5-B of the A.P.Rights in Land and Pattadar Pass Books Act, 1971 (*for short 'the Act, 1971)* against the order dated 09.07.2015 passed by the 4th respondent rejecting the application of the petitioner for mutation of his name in revenue records.

Learned counsel for the petitioner submits that the petitioner inherited the subject property of Ac.0.20 guntas in Survey Nos.579, 580, and 581 of Ursu Village, Warangal Mandal and District, from his paternal aunt Thippani Lachamma who has been declared before the Special Officer & (Competent Authority), Urban Land Ceiling, Warangal in UC.Case No.A1/3739/76 as non-surplus holder by order dated 31.07.2002 and petitioner has inherited the said property through 'will' from the said Thippani Lachamma and basing on the same petitioner filed application before the 4th respondent for mutation of his name in the revenue records, but the same was erroneously dismissed by the 4th respondent and against the same petitioner filed appeal before the 3rd respondent and the same was also dismissed.

Heard learned Assistant Government Pleader for Revenuer who submits that since the petitioner himself filed appeal under Section 5(B) of the Act, 1971, the 3rd respondent is under the impression that the petitioner was seeking validation of the gift deed and dismissed the same which cannot be faulted.

In this case it is to be seen that the petitioner filed application before the 4th respondent for mutation of his name basing on the unregistered will executed by the owner of the property and the same was rejected. Aggrieved by the same the petitioner filed appeal under Section 5-B of the Act, 1971, erroneously, and that the 3rd respondent also passed orders thinking that the appeal was for validation of the document. As per the Act, 1971, an appeal shall lie before the Revenue Divisional Officer against the orders passed by the Tahasildar refusing to make any amendment in the record of rights. The petitioner could have filed appeal under Section 5(5) of the Act, 1971 instead of 5B of the Act, since the appeal arose before the 3rd respondent against the refusal orders of Tahasildar for mutation of property.

In view of the same, the impugned order dated 30.07.2016 passed by the 3rd respondent in Proceedings No.A/3740/2015 is set aside and the matter is remitted to the 3rd respondent for fresh disposal. The 3rd respondent shall treat the appeal filed by the petitioner as the appeal filed under Section 5(5) of the Act and dispose the same after issuing notice to the petitioner.

Accordingly, the writ petition is disposed of. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

23.03.2016
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