

HON'BLE SRI JUSTICE S.V.BHATT

W.P. No.33795 OF 2012

ORDER:

Heard Mr.D.Krishna for petitioner, the Assistant Government Pleader for respondents 1 and 2 and Mr.Govind Reddy Kontham for 3rd respondent.

The petitioner prays for writ of certiorari to call for the records leading up to and inclusive of order dated 17.07.2012 in Revision Petition No.D1/3660/2008 and quash the same by holding that the 3rd respondent illegally acquired Acs.13-30gts. in Survey No.884 and Ac.1-25gts.in Survey No.853/AA of Metpalli Village from 4th respondent.

The writ prayer has two facets, firstly, challenge to the order dated 17.07.2012 and secondly to hold that the transfer of property in favour of 3rd respondent is illegal and unenforceable.

The 2nd respondent through the order impugned in the writ petition declined to entertain the revision filed by petitioner under Section 9 of the A.P. Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act'). The case of the petitioner is that the 3rd respondent herein got an extent of Acs.13-30gts. in Survey No.884 and Ac.1-25 gts. in Survey No.853/AA transferred from 4th respondent society by creating false and fabricated documents. Therefore, a request was made for cancellation of the sale deed and to restore the name of 4th respondent society. The 2nd respondent through the order impugned in the writ petition dismissed the revision and held as follows:

"Heard the arguments and perused the record. It is observed that, the respondent purchased the land in

survey number 884 to an extent of Ac.13.30 gts from Smt.Cheeti Anandamma, in survey number 1373 to an extent 0.21 gts from Gonela Peddulu, in survey number 853/Aa Acs.1-25 gts from Pudukaram Sailu S/o.Ramaiah and in survey number 853/Ee to an extent 0-22 gts from Vadla Rajaiah S./o.Lingaiah total extent Ac.16-18gts through unregistered simple sale deeds dated 10.04.1974 (Sada Byenamas) and the same were validated by the Tahsildar, under ROR vide file No.ROR/226/98 dated 10.11.2004. The petitioner has not submitted any documentary evidence to prove the allegations levelled by him against the respondent. In the circumstances the petition is dismissed. The stay granted in this case, vide Proceeding No.D1/3660/2008 dated 05.07.2008 is vacated.”

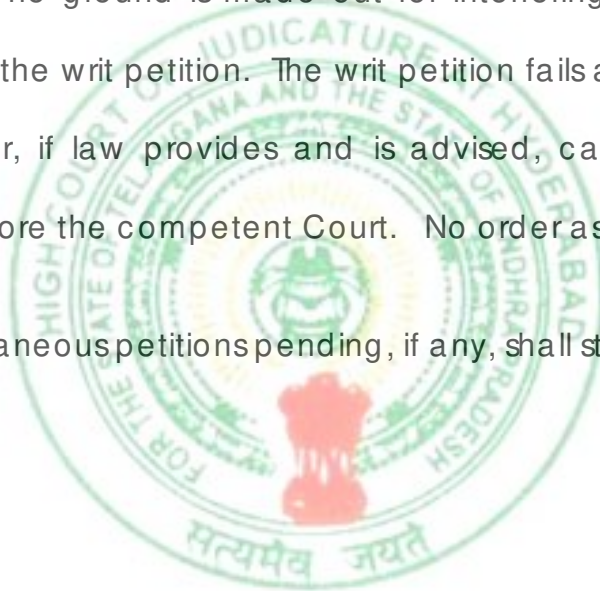
Hence, the writ petition.

The counsel for petitioner contends that the probabilities or the circumstances stated by the petitioner would show that the transfer in favour of 3rd respondent from 4th respondent is vitiated, unnatural and unbelievable. The 2nd respondent has erred on the limits of his jurisdiction by observing that these matters are to be worked out in a suit filed for comprehensive reliefs. Therefore, prays for setting aside the order impugned in the writ petition.

Mr.Govind Reddy Kontham by relying on the findings recorded by 2nd respondent submits that from the very allegations made by the petitioner herein the issue does not come under Section 9 of the Act. Therefore the grievance and the remedy against such situation are elsewhere, therefore, no exception can be taken to the findings recorded by the 2nd respondent. The operative portion of the order is already excerpted and the reasons why the 2nd respondent did not consider it apt to exercise his

jurisdiction to examine the correctness, proprietary or legality of entries of records of rights are evident. The scope of Sections 8 and 9 of the Act is no more res-Integra. The petitioner herein can file revision before the 2nd respondent for the purposes stated in Section 9 of the Act. In the case on hand, the petitioner is praying for ignoring the transfer in favour of 3rd respondent and to restore the name of 4th respondent in the record of rights. If the transaction is vitiated for any reason, the remedies are not under the Act, but before the competent civil Court. After perusing the record, I am satisfied that no ground is made out for interfering with the order impugned in the writ petition. The writ petition fails and is dismissed. The petitioner, if law provides and is advised, can work out the remedies before the competent Court. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.



S.V.BHATT,J

Date:12.10.2017

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