THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE DR JUSTICE SHAMEEM AKTHER

Writ Appeal No.515 of 2017

JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

Heard the learned Government Pleader for Revenue appearing on behalf of the appellants, Sri D.Prakash Reddy, learned Senior Counsel appearing on behalf of respondents 1 and 2, and Sri Tadi Nageswara Rao, learned counsel for the 3rd respondent.

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P.No.20268 of 2008 dated 27.02.2017. The respondents in the writ petition are the appellants herein. The respondents herein filed the said writ petition to call for the records relating to the order of the 1st appellant (1st respondent in the writ petition) dated 19.08.2008 confirming the order of the 2nd appellant (2nd respondent in the writ petition) vide proceedings dated 29.10.2007, and to quash the same.

By the impugned order dated 19.08.2008 the Joint Collector held that the contention of the revision petitioners (respondents herein), that they had purchased land through registered sale deed, did not serve any purpose, as the seller himself did not have any title; the revision petitioners were obligated to verify facts before purchasing the land; if it was true that settlement pattas were issued, they should have obtained the same from their vendors who are said to have sold them the land; and purchase, if any, of Government land did not confer any right on the revision petitioners. The Joint Collector dismissed the revision petition holding that the subject land was Government land, and the revision petitioners had not filed any documentary evidence to the effect that settlement pattas were issued to their predecessors.

The order of the Joint Collector is in a revision filed by the respondents herein under Section 9 of the A.P. Rights in Land and Pattadar Pass Books Act, 1971 (for short "the Act") against the order of the Revenue Divisional Officer, Vizianagaram dated 29.10.2007 cancelling the pattadar pass books and title deeds issued to the respondents herein covering an extent of Ac.26.62 cents in various suvey numbers of Bharinakam Village of Poosaptirega Mandal. In his order dated 29.10.2007 the Revenue Divisional Officer had observed that the respondents herein had obtained pattadar pass books and title deeds for the subject lands through registration fraudulently; the pattadar pass books and title deeds issued by the Tahsildar deserved cancellation; and, hence, were cancelled.

In the order under appeal, the Learned Single Judge observed, relying on the judgment of the Division Bench of this Court, in ***Sannepalli Nageswar Rao and another vs. District Collector, Khammam and others***[1], that no appeal is provided against an order issuing pattadar pass books under Section 6-A of the Act. While setting aside the impugned proceedings of the Joint Collector dated 19.08.2008, the Learned Single Judge granted the appellants herein liberty to avail the remedies available to them under law.

Section 5(5) of the Act stipulates that, against every order of the Mandal Revenue Officer either making an amendment in the record of rights or refusing to make such an amendment, an appeal shall lie to the Revenue Divisional Officer, or such authority as may be prescribed, within a period of 60 days from the date of communication of the order. Section 6A(1) of the Act requires every owner or pattadar of any land to apply, for the issue of a pass book and title deed, to the Mandal Revenue Officer. Section 6A(2) of the Act requires the Mandal Revenue Officer, on

[1] 2002 (4) ALT 465 (D.B.)

such an application being made, to issue a title deed and pass book in accordance with the Record of Rights with such particulars and in such form as may be prescribed.

The pattadar pass books and title deeds are required to be issued, under Section 6-A of the Act, in accordance with the record of rights. The pattadar pass books and title deeds only reflect the entries, in the record of rights, made by the Mandal Revenue Officer under Section 5(1) of the Act. While the Legislature has provided for an appeal against the entry made in the record of rights, no appeal has been provided against the consequential act of grant of pattadar pass books and title deeds under Section 6-A of the Act. In the present case, the Revenue Divisional Officer sought to cancel the pattadar pass books without having set aside the entry in the record of rights.

Learned Government Pleader for Revenue would draw our attention to Section 9 of the Act whereunder the Collector has been conferred power, either *suo motu* or on an application being made to him, to call for and examine the record of any recording authority, Mandal Revenue Officer or Revenue Divisional Officer under Sections 3, 5, 5-A or 5-B of the Act, in respect of any record of rights prepared or maintained, to satisfy himself as to the regularity, correctness, legality or propriety of any decision taken, order passed or proceedings made in respect thereof; and if it appears to the Collector that any such decision, order or proceedings should be modified, annulled or reversed or remitted for reconsideration, he may pass orders accordingly.

The power of revision, conferred on the Collector, is also to examine the records of the Mandal Revenue Officer, among others, under Section 5 of the Act which is regarding the entry made in the record of rights. It is no doubt true that the power conferred on the Collector under Section 9 of the Act can be exercised *suo motu.* Since the power of revision, conferred on the Collector under Section 9 of the Act, is only to correct an entry in the record of rights, and not against cancellation of the pattadar pass books, the order impugned before the Learned Single Judge is not referable to the power of revision under Section 9 of the Act.

The Learned Single Judge has left it open to the appellants herein to take action in accordance with law which, necessarily, means that any action, which the appellants can take, is only with regards the entry in the record of rights, and not the consequential act of cancellation of the pattadar pass books. Suffice it to make it clear that merely because the order passed by the Joint Collector has been set aside, does not preclude the authorities concerned from exercising their powers under the Act to correct the entry in the record of rights in accordance with law. Needless to state that any action, which the appellants may take, can only be after the person, in whose favour an entry is made in the record of rights, is put on notice and is given an opportunity of being heard. It is always open to the respondents herein to question any order passed, or action taken by the authorities under the Act, in accordance with law.

The Writ Appeal stands disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(DR. SHAMEEM AKTHER, J)

20th April, 2017
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