

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.14590 OF 2017

ORDER:

The case of the petitioners is that petitioners are the owners of the lands in Sy.No.57 of Hasmathpet Village, Balanagar Mandal, R.R.District by virtue of orders in the suit in C.S.No.14 of 1958 dated 26.02.2010. It is stated that one Mrs.Dildarunnissa Begum filed suit for partition of Matruka properties of Kurshid Jahi Paigah and the Government being the defendant No.53 had contested the suit and failed and a preliminary decree was passed on 28.06.63. After passing of the preliminary decree 80% of the share holders (including the defendant No.52 vide registered deed dated 03.08.1964 bearing Doc.No.2460/1964) have sold away their decretal rights by way of registered sale deed in the year 1964-65 in favour of H.E.H The Nizam and Nawab Khazim Jung, who were impleaded as defendants 156 and 157 respectively. Thereafter the defendant No.156 sold his share to defendant No.206. Initially, the L.Rs. of H.E.H, the Nizam have objected the same, later they have accepted the assignment to be true and the application No.82 of 1967 was allowed by order dated 04.03.1979. Thus the defendant No.206 succeeded to all the rights of sold share holders along with defendant No.157 and subsequently their names were substituted in place of sold sharers as per the orders passed in Application No.64/1983 dated 05.08.1983 and the said orders are confirmed in O.S.A.No.59/2006 and batch. The 4th respondent claiming to be L.R of defendant No.52 filed an application in C.S.No.14 of 1958, but the said application was

dismissed on 31.07.2006 on the ground that the defendant No.52 had already sold his share and as per the Muslim law, there is no matruka left over to the L.R.s to come on record. Aggrieved by the same, the 4th respondent filed OSA.No.47 of 2006 and the same was dismissed on 12.06.2007. Against the same, the 4th respondent approached Supreme Court by filing SLP.C.No.19811-19812 of 2008 and the same was dismissed on 03.02.2015. As such, the purchasers have come on record to pursue their further proceedings. The State filed an appeal against the preliminary decree and also contested other orders, but failed. Thereafter, the Government issued memo dated 05.11.2004 and 18.05.2009 directing the concerned Revenue officials to mutate the names of the decree holders or their registered assignees in the revenue records with regard to the land covered by the suit in C.S.No.14 of 1958. As per the report of the Receiver-cum Commissioners filed in Application No.690 of 2005, the subject land was allotted to defendants 157 and 206, the defendant No.52 was shown as sold sharer and the said report was accepted by the Court on 01.02.2008. The petitioners being the purchasers of the decretal rights filed Application No.711 of 2009 for passing of final decree and the same was passed on 26.02.2010, which was confirmed in appeal filed at the instance of the State in O.S.A.Sr.No.3875 of 2012 and batch dated 30.04.2013. The Government carried the matter to the Supreme Court in SLP.C.No.22420 of 2011 and the same was dismissed on 26.11.2013. After passing of the final decree, the Receiver-cum-Commissioner had handedover the possession by conducting panchanama and mutation was also

granted vide proceedings dated 19.08.2011. Though the matter ended upto the Supreme Court, the 4th respondent filed Revision petition before the 2nd respondent in the month of July, 2015 and notices were issued to the petitioners for appearance before the 2nd respondent. Against the initiation of the Revisional proceedings, the petitioners filed W.P.No.7206/2016 and the same is pending. The present impugned order is passed, when the matter was adjourned for filing counter. Aggrieved by the same, the present writ petition is filed.

Learned counsel for the petitioners submits that Revision petition filed by the 4th respondent under Section 9 of A.P. Rights in Land and Pattadar Passbooks Act, 1971 was entertained by the 2nd respondent after a period of four years and that too when mutation orders are passed basing on the Court decrees and when writ petition challenging the very same proceedings is pending.

On the other hand, learned counsel appearing for 4th respondent submits that though the proceedings dated 19.08.2011 were passed in the year 2011, the same were not implemented as on today. He also submits that it is only interim order pending Revision and petitioners can raise all their objections before the 2nd respondent, as it is pending before the 2nd respondent. He also submits that no stay was granted in writ petition challenging the initiation of Revisional proceedings, as such there is no bar in passing the impugned order.

This Court granted interim order on 21.04.2017. But no where it is stated in the writ affidavit that the proceedings dated 19.08.2011 passed by the 3rd respondents are implemented.

In the writ petition said to have been filed by the petitioners challenging the initiation of Revisional jurisdiction by the 2nd respondent, no stay was granted.

A perusal of the order dated 19.08.2011 passed by the 3rd respondent goes to show that the entries in revenue records in respect of the subject land are shown as Government land prior to passing of that order.

As rightly contended by the 4th respondent, petitioners can raise all the objections in the Revision pending before the 2nd respondent. The above aspects raised by the petitioners have also to be considered by the 2nd respondent in the Revision.

In view of the above facts and circumstances, the writ petition is disposed of directing the 2nd respondent to dispose of the Revision filed by the 4th respondent by considering all the objections raised by the petitioners as well as unofficial respondents after affording an opportunity of hearing to both the parties. Till then, status-quo obtaining as on today shall be maintained regarding entries in revenue records in respect of subject land.

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

28.04.2017
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