THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.35210 of 2017

O R D E R:

Petitioners have filed this Writ Petition assailing the action of the respondents in not considering their application dt.15.09.2015 as well as their representation dt.31.07.2017 for correction of entries in 1B Register, Cultivation Adangal and other Revenue Records in respect of an extent of Acs.4.67 cents in survey No.121 of Garividi Village and Mandal, Vizianagaram District, and for mutation of their names in the revenue records in respect of the said land.

2. Petitioners claim that D-Form patta had been issued in 1967 to their ancestor, Pathigulla Ramulu, that pattadar pass book had been issued in the name of the petitioners' grand father and they have also been paying taxes in respect of the subject land. They allege that when certain third parties tried to interfere with their possession and enjoyment of the said land, the father of petitioners 4 and 5 along with petitioners 2 and 3 filed O.S.No.50 of 1991 before the Junior Civil Judge, Chipurupalli and the Civil Court accepted that they were assignees under D-Form patta and decreed the suit on 08.05.1998 granting permanent injunction in their favour which was also confirmed by the Additional District Judge, Vizianagaram on 18.06.2004 in A.S.No.67 of 2002.

3. Petitioners contend that when they approached the revenue authorities for copies of adangal to avail agricultural loan, they came to know that the land is recorded as 'Poramboke land' belonging to 4th respondent-East Coast Railway. Petitioners contend that they immediately approached 3rd respondent for correction of the revenue records pointing out that the name of the 4th respondent is wrongly entered therein and sought for deletion of the same.

4. Petitioners asserted that the 3rd respondent, after verifying all the records and conducting inspection, expressed that the railway line between Garividi and Cheepurupalli Villages passes through survey Nos.120 and 122 of Garividi village, that it does not pass through survey No.121 of Garividi village and land in survey No.121 of Garividi Vilalge has nothing to do with the 4th respondent and its name is wrongly mentioned in the revenue records. They also stated that a Joint Inspection of the land was done by respondents 2 to 4 on 09.12.2016 which also showed that the railway line managed by 4th respondent did not pass through survey No.121, but copy of the said inspection report is not furnished to the petitioners though they sought it under Right to Information Act, 2005. They contend that petitioners made representations on 15.09.2015 and 31.07.2017 to respondents 2 and 3 requesting them to consider their

application for correction of entries in revenue records, but no action has been taken till date.

5. Counter affidavit has been filed by the 4th respondent through Sri K.Bhaskar contending that the railway line between Garividi and Cheekurupalli villages passes through only survey Nos.120 and 122 of Garividi village, that land acquisition for formation of railway line as well as abutting extension area was done way back in 1914, but no record of said land acquisition is now available in their office. It is stated that even if it is available, it is not possible to identify the area held by the 4th respondent in view of the changes in sub divisions and survey numbers from time to time and that the revenue department can alone give explicit information regarding survey No.121. It was denied that there was any joint inspection done on 09.12.2016. The 4th respondent claims that it had no knowledge about the assignment of land in 1968 to petitioners' ancestors.

6. In the absence of any material placed by the 4th respondent that the subject land in survey No.121 indeed belongs to it, the claim of the 4th respondent to the said land has to be negatived.

7. Coming to the counter of the 3rd respondent, it is stated that the subject land is located in K.L.Puram Village attached to Garividi Mandal, that it was an Estate Village of

Vizianagaram Zamindari, that the said Village was taken over by the Government under the provisions of A.P. (Andhra Area) Estate Abolitions(Conversion into Ryotwari) Act, 1948, that Survey Settlement was conducted long back and Settlement Fair Adangal was introduced during 1960-64.

8. However, the 3rd respondent filed documents relating to survey No.121 of Garividi village only. So it is not possible to say that subject land is in K.L.Puram Village.

9. It is not denied in the counter affidavit of the 3rd respondent that pattadar pass book was issued to the petitioner's father in respect of the subject land. However, it is stated that the land in survey No.121 claimed by the petitioners is noted as 'Gayalu' in the Settlement Fair Adangal, but there is no record available in his office with regard to assignment of land in favour of petitioners' ancestor, P.Ramulu, and that therefore patta produced by the petitioners has to be treated as fake and non-existent.

10. This contention cannot be accepted for the reason that the pattadar pass book has also been issued to the petitioners by the respondents and merely because the respondents have lost the record of assignment, they cannot treat the patta issued to the petitioners as a fake one. The Civil Court had in fact relied on the pattadar pass book and granted petitioners relief of injunction also on 08.05.1998 in O.S.No.50 of 1991.

11. The 3rd respondent also admitted that the railway line between Garividi and Cheepurupalli Villages goes through survey Nos.120 and 121 only and does not pass through survey No.121 claimed by the petitioners and no other evidence is referred to by the 3rd respondent as to why land in survey No.121 is recorded as 'poramboke railways'. Therefore, the question of continuing the same entry in the revenue record/web land of Garividi village in respect of the said survey number does not arise.

12. Having issued pattadar pass book to the petitioners' father, it is not known on what basis the 3rd respondent has taken plea in the counter affidavit that the petitioners are not in possession and enjoyment of the subject land. It is clear that the 3rd respondent has filed a false affidavit, only to harass the petitioners. Therefore, the stand of the 3rd respondent is rejected.

13. Therefore, the Writ Petition is allowed; the respondents are directed to correct the entries in 1B Register, Cultivation Adangal and other Revenue records and keep the name of the petitioners in respect of an extent of Acs.4.67 cents in survey No.121 of Garividi Village and Mandal, Vizianagaram District. The 3rd respondent shall also pay costs of Rs.2,000/- to petitioners.

14. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

05th December, 2017.

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