

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.NO.42490 OF 2016

O R D E R

As per the writ averments, the predecessors in title of the petitioners filed suit in O.S.No.199 of 1977 on the file of District Munsif, Karimnagar for specific performance against Eleti Mallaiah and five others in respect of subject land. By judgment and decree 30.6.1980 the suit was allowed. At the stage of execution, the 5th respondent filed claim petition under Order 21 Rule 28 of CPC claiming that he purchased the property from judgment-debtors and others and accordingly claimed the relief. The said claim petition ended in dismissal. As the judgment-debtors failed to execute the decree, the sale deed in respect of the schedule land, was executed by the court, under document bearing No.398 of 2000 dated 25.4.2000. However, as the 5th respondent got his name mutated in the revenue records for the subject land, the late husband of the 1st petitioner, along with other shareholders, filed appeal before the 3rd respondent – Revenue Divisional Officer. By order dated 6.1.2009 in Appeal No.D/7472/2004, the 3rd respondent allowed the appeal by cancelling the pattadar pass books issued in favour of the 5th respondent and directed to record the names of the husband of the 1st petitioner and others in the revenue records. Subsequently, the 5th respondent filed suit in O.S.No.92/2016 on the file of Principal District Judge, Karimnagar for perpetual injunction. Though the trial court initially granted interim injunction, subsequently the same was vacated. While so, the petitioners approached the 4th respondent – Tahsildar for implementation of the orders of the 3rd respondent – Revenue Divisional Officer dated

6.1.2009. Aggrieved by the inaction of the 3rd respondent in mutating the names of the petitioners and in issuing pattadar pass books and title deeds as per the orders of the 3rd respondent dated 6.1.2009, the present writ petition has been filed.

The learned Assistant Government Pleader for Revenue submits that as against the orders of the 3rd respondent dated 6.1.2009, the 5th respondents and others filed revision under Section 9 of A.P. Rights in Land and Patedar Pass Books Act, 1972 before the 2nd respondent – District Collector, issued notice bearing No.D1/4928/2015 dated 30.12.2016 was issued to the petitioners and, therefore, the 4th respondent – Tahsildar, could not implement the orders of the 3rd respondent dated 6.1.2009. He also produced a copy of the said notice.

The learned counsel for the 5th respondent, who filed counter affidavit, while denying the claim of the petitioners, stated *inter alia* that against the interim orders vacating the interim injunction granted in O.P.No.92/2016, appeal has been filed before this court in CMA.No.1007/2016 and the same is pending adjudication.

From the material on record, it could be seen that the 3rd respondent – Appellate Authority by order dated 6.1.2009 allowed the appeal and cancelled the pattadar passbooks and title deeds of the 5th respondent and directed the 4th respondent to take necessary action by recording the names of the petitioners in the revenue records. The revision filed by the 5th respondent and others is of the year 2015 i.e., after a period of six years, in which only notices were issued. All these years, no revision was filed and

obviously there could not have been any stay of operation of the order dated 6.1.2009, passed by the 3rd respondent. In such circumstances, it is not known why the 4th respondent – Tahsildar has not implemented the order of the 3rd respondent.

Having regard to the facts and circumstances, if no stay is granted by the 2nd respondent – District Collector in the revision filed by the 5th respondent and others, the 4th respondent- Tahsildar, shall implement the orders of the 3rd respondent in Appeal No.D/7472/2004 dated 6.1.2009 within a period of four weeks from the date of receipt of a copy of this order.

It is needless to observe that the 5th respondent is at liberty to raise all the grounds that are available to him in law and the 2nd respondent – District Collector after affording the opportunity of hearing to all the parties in the revision, shall dispose of the same in accordance with law.

It is also needless to observe that the implementation of the orders of the 3rd respondent dated 6.1.2009, is subject to the out come of the revision and the suit filed by the 5th respondent.

With the above direction and observations, the writ petition is disposed of at the stage of admission. No costs.

Miscellaneous petitions pending if any, shall stand closed.

A.RAJASHEKER REDDY,J

DATE:22—02—2017
AVS