

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.37553 OF 2016

ORDER:

1. The issue in this Writ Petition is with regard to mutation of the petitioners' names in the revenue records and issuance of pattadar passbooks and title deeds in their favour.

2. Heard the learned counsel for the petitioners and the learned Government Pleader for Revenue and Sri T.Venkat Raju Goud, learned counsel for respondents 5 and 6.

3. The Tahsildar-fourth respondent acceded to the prayer of the petitioners to mutate the name of the petitioners in the revenue records to the extent of share claimed by them in the joint family property. On an appeal filed by the official respondents herein, the Revenue Divisional Officer (RDO) reversed the said decision and directed correction of revenue records. Petitioner challenges the said decision in this Writ Petition.

4. Section 58-B of the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 Fasli reads as under.

58-B. Procedure in case of transfer by order of Court of land not transferable without sanction of Collector:-

Where right of occupancy of any land is declared non-transferable without the sanction of the Collector and the collector has not given sanction for its transfer and the transfer of such occupation has been made by the order of a Civil Court or the Civil Court has passed a decree regarding its transfer or its decree or order is founded on such transfer as has been affected without the sanction of the Collector.

(a) No process of the Civil Court shall have effect on such land nor any transfer thereof shall be considered as valid; and

(b) Where a certificate is produced before such Court under the hand and seal of the Collector to the effect that right of occupancy of the land is not transferable without the sanction of the Collector which should be previously obtained and that such sanction has not been given, such Court shall remove any attachment of land if it has been made or cancel any other process if it has been unissued in respect thereof or if the land has been sold auctioned or any such auction has been made as effects right of occupancy of such land, shall also cancel every such sale.

5. A bare perusal of Section 58-B of the Act 1317 Fasli, shows that the said provision is not attracted to the facts in issue. One of the reasons for allowing the appeal is that violation of provisions of Section 58-B of the Act 1317 Fasli and that no prior approval of the District Collector was obtained before the Tahsildar undertaking the exercise of mutating the names of the petitioners in the revenue records in compliance of the decree passed by the competent Civil Court. *Prima facie*, on reading the provision under Section 58-B of the Act 1317 Fasli, I am of the view that said provision has no application to the facts of the present case.

6. At this stage, both counsel agreed for remanding the matter for consideration of issue afresh and passing appropriate orders. In view of the same, this Court is not recording elaborately the contentions of the respective counsel.

7. The order of the RDO is set aside. The matter is remanded to the RDO for considering afresh and passing orders after hearing both the parties. Since the issue is very old one, the RDO is directed to fix a date of hearing, notify the date of hearing in advance, conclude the hearing and pass appropriate orders. The

entire exercise shall be completed within eight (8) weeks from the date of receipt of a copy of this order. On the date fixed by the RDO, both the parties shall appear and make their submissions. If the parties do not co-operate, it is open to the RDO to proceed further and pass orders in accordance with law.

8. The Writ Petition is, accordingly, allowed and matter is remanded. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(P.NAVEEN RAO, J)

4th September 2017
RRB

