

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.203 OF 2018

ORDER:

Heard learned counsel for the petitioners, learned Government Pleader for Revenue appearing for respondents 1 to 4 and the learned counsel for respondents 5 and 6.

2. The petitioners state that they are the maternal grand sons of Smt Kurva Ramulamma, who was the original pattadar of agricultural land to an extent of Ac.09.03 guntas situated in Survey No.86/A of Thippaipally Village, Pebbair Mandal, Mahaboobnagar District. She was stated to have gifted the said land through unregistered Gift Deed dated 23.05.1984 in favour of the first petitioner, of an extent of Ac.4.22 guntas and an extent of Ac.4.21 guntas in favour of second petitioner. They got their names mutated in the revenue records. Pattadar passbooks and title deeds were issued in their favour by proceedings of the fourth respondent, dated 28.07.1997. They have been paying the taxes regularly. The first petitioner sold an extent of 01.00 gunta in survey No.86/2 in favour of one Narayana Goud through a registered Sale Deed, dated 05.06.2003. The fourth respondent issued pattadar passbooks in his favour for the said extent. An extent of Ac.1.20 guntas in Survey No.86/2 was acquired in PJP canal and compensation was paid under Award No.57 of 1999. However, the grand mother of the petitioners filed an appeal before the third respondent challenging the order passed by the fourth respondent on 28.07.1997. She also sold an extent of Ac.3.22 guntas of land in favour of the fifth respondent by registered Sale Deed, dated 12.04.2007. The said land is situated in Survey No.86/A1. She also sold another extent of Ac.4.21 guntas, which is situated in Survey No.86/A1 in favour of sixth respondent on the same day i.e., on 12.04.2007. The third respondent, in the appeal

preferred by the grand mother of the petitioners, remanded the matter for *de novo* enquiry by his proceedings, dated 20.06.2000. Challenging the same, the petitioners preferred revision before the second respondent. When respondents 5 and 6 tried to interfere with the possession of the petitioners pending revision, the petitioners filed O.S.No.123 of 2007 on the file of Junior Civil Judge, Wanaparthy, for perpetual injunction and the said suit was dismissed on 16.08.2007. Aggrieved by the same, they preferred first appeal in A.S.No.1 of 2007 on the file of District Judge, Wanaparthy, and the said appeal was also dismissed on 31.10.2016. Against dismissal of the first appeal, they filed second appeal in S.A.No.364 of 2017 before this Court and the same was admitted on 28.04.2017. However, during pendency of the suit, the second respondent passed an order dated 25.06.2011 setting aside the order passed by the third respondent, dated 20.06.2000 and also order of the Tahsildar, dated 26.07.2007. Respondents 5 and 6 submitted an application before the fourth respondent for mutating their names in respect of land purchased by them and the fourth respondent passed order on 04.10.2017 allowing their application without issuing any notice to the petitioners. Though the order passed by the fourth respondent states that the said order is subject to outcome of the Second Appeal in S.A.No.364 of 2017, since the order directs that names of respondents 5 and 6 should be mutated, the said order is challenged in the present Writ Petition.

3. Learned Government Pleader, on instructions, submits that the fourth respondent has not issued any notice to the petitioners before passing the order on 04.10.2017.

4. As stated above, the second respondent passed an order in revision on 25.06.2011 setting aside the order passed by respondents 3

and 4 and the said order has become final. Thus, the order of the second respondent is in operation as on today and the vendor of respondents 5 and 6 is a party to the said revision petition. Respondents 5 and 6 are claiming title through the first respondent in the said revision. In the circumstances, the fourth respondent should have issued notice to the petitioners before deciding the claim of respondents 5 and 6.

5. In view of the same, the Writ Petition is allowed by setting aside the order of the fourth respondent dated 4.10.2017 and matter is remanded to the fourth respondent for fresh consideration of the claim of respondents 5 and 6 for mutating their names in respect of lands to an extent of Ac.3.22 guntas and Ac.4.21 gutas situated in Survey Nos.86/A1 and 86/A2 respectively of Thippaipally Village, Pebbair Mandal, Wanaparthy District, in accordance with law, uninfluenced by any observation made in the present order, within a period of sixty (60) days from the date of receipt of a copy of this order.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

JANUARY 30, 2018

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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO



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Date:30.01.2018

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