

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No.1409 of 2018

Order:

Heard learned counsel for the petitioners, learned Government Pleader for the respondents 1 to 4 and learned counsel for the respondents 5 to 7.

It is the case of the petitioners that one Bollepally Laxmamma was the absolute owner and possessor of the land of an extent of Ac.13-07 gts., in Survey No.704, known as "Nakkaroni Chelka", situated at Manchal village and Mandal, Ranga Reddy District. She died on 14.09.2010 and she is the mother of the first petitioner and grand mother of the second petitioner. During her life time she executed a gift deed in favour of the second petitioner on 23.01.2006 gifting the land of an extent of Ac.7-00 in Survey No.704. Accordingly, the second petitioner applied for mutation and the fourth respondent granted pattadar passbooks and title deeds in favour of the second petitioner by proceedings dated 21.09.2006. During her life time, she alienated the land of an extent of Ac.1.12 gts., in favour of one Gorige Mallaiah and after his demise the said property was divided into two equal shares between the respondents 6 and 7, being the sons of late Gorige Mallaiah. Remaining land of an extent of Ac.4-35 gts., continued in the name of Bollepally Laxmamma and the petitioners succeeded to the same after her death. The petitioners and respondents 6 and 7 are cultivating the land held by them and their names are continuing in the revenue records. While so, the fourth respondent issued a notice on 22.12.2017 stating that the second respondent passed an order on 02.11.2017 for rectification of entries by deleting the names of Bollepally Laxmamma, second petitioner and respondents 6 and 7 and posted the case for hearing on 26.12.2017. The petitioners filed vakalat before the fourth respondent and sought time,

but the fourth respondent did not grant time as he has been implementing the orders of the second respondent. Thereafter, the petitioners approached the office of the second respondent and came to know that he passed the impugned order without issuing any notice and against a dead person Bollepally Laxmamma. It appears that the fifth respondent filed an appeal before the third respondent, but he directed him to approach the second respondent. Accordingly, he filed revision before the second respondent. The fifth respondent also filed WP No.34644 of 2014 when the revision before the second respondent was not being disposed of. This Court disposed of the said Writ Petition by order dated 17.11.2014 directing the second respondent to dispose of the revision. Thereafter, the second respondent passed an order as aforesaid on 02.11.2017 allowing the revision filed by the fifth respondent. Challenging the orders passed by the second respondent on 02.11.2017, the present Writ Petition is filed.

Since the entire case of the petitioners is rested on the issuance of notice by the second respondent, this Court called for the record from the second respondent and noticed that the name of the fifth respondent's ancestor was recorded in the Khasra Pahani for the year 1954-55 and the name of the ancestors was recorded from the year 2004-05 onwards. It is also noticed that the second petitioner was put on notice, but the second petitioner did not appear before the Joint Collector.

Now the learned counsel for the petitioners submits that by virtue of the decree passed in O.S.No.40 of 1961 by the District Munsif, Ibrahimpatnam, Hyderabad District, the name of Bollepally Laxmamma was being recorded from 2004-05 onwards and the predecessors in interest of the fifth respondent was a party to the said proceedings. This fact could not be brought to the notice of the second respondent due to lack of

opportunity. Learned counsel for the petitioners further submits that it is not known as to who has taken the notice issued to the second petitioner.

In the circumstances, in order to give one more opportunity to the petitioners, the order passed by the second respondent on 02.11.2017 is set aside and the matter is remanded to the second respondent for passing appropriate orders in accordance with law, after giving due opportunity to the petitioners as well as to the respondents 5 to 7, within a period of three (3) months from the date of receipt of a copy of this order. Till such time, the fourth respondent shall not take any steps for effecting correction of entries in the revenue records and shall await the orders of the second respondent.

The Writ petition is, accordingly, allowed. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this writ petition shall stand closed.

Date: 15.02.2018
Nsr

A. RAMALINGESWARA RAO, J