THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.34503 of 2015

Dated:29.01.2018

Between:

Shaik Jeelani

.. Petitioner

And

The Revenue Divisional Officer, Narasaraopet, Guntur
and others

.. Respondents

The Court made the following:

ORDER:

Heard learned counsel for both parties. With the consent of learned counsel, Writ Petition is disposed at the admission stage by this order.

2. The short issue that arises for consideration in this writ petition is whether appeal under Section 5 of the Andhra Pradesh Rights in Land and Pattadar Passbooks Act, 1971 (for short 'the Act') against issuance of pattadar passbook is maintainable.

3. The Revenue Divisional Officer (R.D.O.) – respondent No.1 entertained appeal preferred by respondent No.4 under Section 5 of the Act against issuance of pattadar passbooks in respect of the subject land in favour of the petitioner and by order dated 30.09.2015 allowed the appeal.

4. Learned counsel for petitioner contends that aforesaid order of respondent No.1 (R.D.O.) is liable to set aside on the sole ground that no such appeal is maintainable as held by the Division Bench of this court in W.P.No.21689 of 1999.

5. Learned counsel for respondent No.4 has sought to defend the order under challenge by contending that respondent No.4 purchased the subject land in a Court auction; he was granted sale certificate on 28.12.1996 and the subject land vested in respondent No.4; and therefore, the question of issuance of pattadar passbook in respect of the subject land in favour of petitioner does not arise. As action of the Mandal Revenue Officer is *ex facie* illegal respondent No.1 (R.D.O.) is justified in allowing the appeal and it needs no interference. He also submits that

writ petition is not maintainable as petitioner has an effective remedy by way of revision.

6. Maintainability of appeal against granting of pattadar passbook under the Act was elaborately considered by Division Bench of this Court in W.P.No.21689 of 1999. By judgment, dated 24.07.2015, the Division Bench held that no appeal lies against issuance of pattadar passbook. It is appropriate to note the observations made by the Division Bench. They read as under:

> " From a bare reading of Section 5(5) of the Act, it can be held that against every order of recording authority either making an amendment in the record of rights or refusing to make such an amendment, an appeal to the RDO, is provided within the time stipulated in the Section. Under the Act, making an amendment in the record of rights or refusing to make amendment in record of rights is a crucial stage and a substantive decision rendered by the recording authority. Therefore, right of appeal is provided against such decisions. Likewise, from the reading of Section 5(5) of the Act, it cannot be construed that Section 5(5) provides remedy of appeal against orders under Section 6-A of the Act. Issuance of PPB/TD or making entries therein is always a step consequential to the record of rights prepared. Therefore the plain reading of Section 5(5) makes it clear that appeal against order under Section 6-A is not maintainable.
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> …………………Issuance of PPB is covered by Section 6-A of the Act. The PPB is nothing but a copy or reflection of entries in the record of rights prepared or maintained at one or the other stages under the Act as stated above. The PPB/TD is maintained and issued in Form No.14-C of the Rules. PPB/TD contains the entries as borne out by 1-B Register. With the issue of pass book to any person whose name in the applicable column is recorded in record of rights, it cannot be said such issuance adversely affects any person. A person is certainly aggrieved by illegal preparation of record of rights and against such illegal preparation the remedy is provided under Section 3(3) of the Act. Likewise, against illegal or erroneous updation of record of rights under Sections 4 and 5 or regularization under Section 5-A of the

Act, the remedy of appeal under Section 5(5) or Section 5-B respectively is available to an aggrieved party. On the other hand, Section 6-A(3) provides for correction of erroneous entries in PPB/TD issued by the Mandal Revenue Officer. The reason for not providing any appeal against the issuance of PPB/TD is manifest from the Scheme of the Act viz., that the issuance of TD/PPB does not by itself adversely affect the substantive right of a person, who claims or has a right in the property for which PPB is issued. In other words, the issuance of PPB/TD is a consequential act and entries in PPB/TD are mere reflection of entries of 1-B Register. Mere filing of appeal against issuance of pattadar pass book which is only a copy of 1-B register is not an efficacious remedy under the scheme of the Act.

……………………..The Legislature in its wisdom and noticing the purpose of issuing PPB/TD did not provide right of appeal against mere issuance of PPB/TD under Section 6-A of the Act. Therefore, on the literal construction of Sections 3 to 6-A of the Act, it can be held that the remedy of appeal under Section 5(5) of the Act is not provided against the issuance of PPB/TD under Section 6-A of the Act. By treating the action under Sections 5 and 6-A of the Act as single or mutually dependent, in our considered view, the remedy of appeal against mere issuance of PPB/TD under Section 6-A of the Act is not available.

7. In view of the above authoritative pronouncement by the Division Bench, the order under challenge is not maintainable and is, accordingly, set aside. The Writ Petition is allowed. However, it is open to respondent No.4 to workout his remedies as available in law with reference to the entries in the Revenue Records.

8. The miscellaneous petitions, if any, pending in this writ petition shall stand closed.

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P. NAVEEN RAO, J

29th January, 2018

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