

HON'BLE SRI JUSTICE P. KESHA VA RAO

WRIT PETITION No.4355 of 2006

ORDER:

Heard learned counsel for the petitioner as well as the respondents.

The prayer in the writ petition is as follows:

“For the reasons stated in the accompanying affidavit, it is therefore prayed that this Hon’ble Court may be pleased to issue an appropriate writ, order or direction more especially one in the nature of Mandamus declaring that the proceedings in case No.D5/5655/2003, dated 05.02.2005, issued by the 1st respondent herein as bad, illegal, void and set aside the same and consequently direct the respondents 1 to 3 to correct the revenue entries by incorporating the petitioner name in respect of petitioner’s half of the share in the lands admeasuring Ac.2.08 guntas in Sy.No.251, Ac.6.18 guntas in Sy.No.756, Ac.1.02 guntas in Sy.No.757, Ac.1.02 guntas in Sy.No.757/A, Ac.0.26 guntas in Sy.No.780, Ac.8.00 guntas in Sy.No.781, Ac.12.25 guntas in Sy.No.787 and Ac.8.01 guntas in Sy.No.794 totally admeasuring Ac.41.16 guntas situated at Lalgadi Malakpet Village, Shameerpet Mandal, Ranga Reddy District and be pleased to pass such other order or orders as this Hon’ble Court may deem fit and proper in the circumstances of the case.”

The facts that lead to filing of the present writ petition are that originally one late Sri M. Venkat Reddy had two sons, namely, late Sri M. Bala Muthyam Reddy and late Sri M. Anji Reddy. As far as the petitioner is concerned, she is the only legal heir of late Sri Bala Muthyam Reddy. As far as respondent Nos.4 to 8 are concerned, they are the legal heirs of late Sri M. Anji Reddy. The petitioner’s father and her father’s brother during their lifetime jointly acquired the agricultural lands admeasuring Ac.2.08 guntas, Ac.6.18 guntas,

Ac.1.02 guntas, Ac.1.02 guntas, Ac.0.26 guntas, Ac.8.00 guntas, Ac.12.25 guntas and Ac.8.01 guntas in Sy.Nos.251, 756, 757, 757/A, 780, 781, 787 and 794 respectively totaling Ac.41.16 guntas situated at Lalgadi Malakpet Village, Shameerpet Mandal, Ranga Reddy district. Both the brothers have equal share over the said agricultural lands and accordingly their names were also mutated in the revenue records as joint pattadars and possessors. In the year 1971, the petitioner's father died and subsequently his brother late Sri M. Anji Reddy also died in the year 1980. It is specifically averred that in the year 1984-85, respondent Nos.4 to 8 got their names mutated in the revenue records in respect of the entire lands in collusion with the revenue authorities. After marriage, the petitioner is residing at her in-laws place at Uddamarri Village. The petitioner is under the impression that all through the names of her deceased father and her father's brother were continuing in the revenue records. However, in the year 2003, the petitioner came to know about mutation in favour of respondent Nos.4 to 8 and immediately she approached respondent Nos.2 and 3 for necessary corrections. On verification and enquiry, the 3rd respondent vide his Memo dated 05.05.2003 informed that the Faisal patti for the year 1984-85 indicates the names of the legal representatives of late Sri M. Anji Reddy ignoring the name of legal representative of late Sri Bala Muthyam Reddy i.e., the petitioner herein. Therefore, he advised to file an appeal before the competent authority. Pursuant to the said proceedings, the petitioner filed an application before the 2nd respondent, who, in turn, issued proceedings

Lr.No.A2/2553/03 dated 05.08.2003 reiterating what all that was stated by the Mandal Revenue Officer, Shamirpet in his Memo dated 05.05.2003 and further informed that the petitioner has to file an appeal against the orders of Najim Jamabandhi approving succession before the competent authority. Aggrieved by the said proceedings, the petitioner filed a revision under Section 9 of the A.P. Records of Rights in Land and Pattadar Pass Books Act, 1971, before the 1st respondent. However, after hearing, the 1st respondent, without going into the merits of the case, dismissed the revision by orders dated 05.02.2005 holding that since the petitioner filed a suit in O.S.No.157 of 2004 on the file of the II Additional District Judge, Ranga Reddy district, in respect of the same lands, revision is not maintainable on the ground that it amounts to parallel proceedings and also relying on the principle laid down in **Velagapudi Satyanarayana v. District Collector, Nalgonda**¹. Aggrieved by the said proceedings, the present writ petition is filed. It is also stated in the affidavit that respondent Nos.4 to 8, on the basis of the mutation affected in respect of the subject lands, have executed a partition deed dated 06.06.2004 amongst themselves vide document No.7158 of 2004 and enjoying their respective shares. During the pendency of the present writ petition, the petitioner filed an application in I.A.No.1 of 2018 seeking a direction to respondent No.3 to issue title deeds in her favour as per the settled law laid down by the Apex Court. Along with the said

¹ 2000 (6) ALD 156

application, the petitioner enclosed proceedings dated 27.08.2012 of the office of the Tahsildar, Shamirpet Mandal, Ranga Reddy district.

A perusal of the said proceedings would indicate that the son of the petitioner filed W.P.No.20120 of 2009. In the said writ petition, WPMP.No.26246 of 2009 was filed seeking a direction to the respondents therein to consider the representation purported to have been submitted by the petitioner's son on 27.07.2008 seeking implementation of the proceedings No.AMRI/Spl/2003 dated 28.06.2003 of the Additional Revenue Inspector, Shamirpet Mandal, Ranga Reddy district and pass appropriate orders. In pursuance of the orders passed by this Court on 18.09.2009, the Tahsildar, Shamirpet Mandal, examined the matter and directed the Village Revenue Officer to make necessary changes in the pahani and also prepare and submit pattedar passbooks accordingly. But, however, as far as issuance of the title deed is concerned, the Tahsildar stated that since the petitioner herein is not in possession of the lands in question, the petitioner's son was informed to prove the possession legally on the ground for issuance of the title deed as per the ROR Act. Keeping aside the validity of the orders in proceedings No.B/7438/2009 dated 27.08.2012 of the Tahsildar, as far as issuance of title deed is concerned, it has become final and it is also informed by the counsel for the petitioner that no writ petition is filed against the said proceedings.

That apart, in the affidavit filed in support of IA.No.1 of 2018, the petitioner in para 7 has categorically stated that respondent Nos.4

to 8, to substantiate the fraudulent illegal entries made in the revenue records, have forged and fabricated the unregistered document as if they have purchased the subject land from her on 06.03.1985 and basing on the said unregistered document, proceedings dated 06.03.1985 have been issued.

In the light of the above said averment, this Court in exercise of the extraordinary jurisdiction under Article 226 of the Constitution of India cannot go into the genuineness or otherwise of the said unregistered document dated 06.03.1985. Further, whether the said document was really executed by the petitioner or not is a disputed question of fact, which cannot be decided in the present writ petition.

Learned counsel for the petitioner also brought to the notice of this Court that during the pendency of the writ petition, pattadar passbook in respect of 50% of the lands mentioned supra was already issued in favour of the petitioner. However, as the dispute with regard to selling of the subject land in favour of respondent Nos.4 to 8 by the petitioner is concerned, it has to be decided in a comprehensive civil suit vis-a-vis the plea of partition set up by the petitioner in O.S.No.157 of 2004 pending on the file of the II Additional District Judge, Ranga Reddy District. Therefore, this Court is of the opinion that the genuineness or otherwise of the document dated 06.03.1985 cannot be gone into in the present writ petition, more so, when a comprehensive civil suit for partition is pending, wherein the said document dated 06.03.1985 is also an issue and the same has to be

trashed out in the said civil proceedings. Therefore, this Court feels that there are no merits in the writ petition.

The writ petition is accordingly dismissed. However, liberty is given to the petitioner to challenge the proceedings No.B/7438/2009 dated 27.08.2012 to the extent of issuance of title deeds in accordance with law. No order as to costs.

Miscellaneous petitions, if any, shall also stand dismissed.

JUSTICE P. KESHA RAO

Date: 16.02.2018.
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