

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.4390 of 2018

ORDER:

Heard Sri Naga Praveen Vankayalapati for petitioner and the Assistant Government Pleader for Revenue.

The issue arises under the A.P.Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act'). The 5th respondent filed appeal against the order of grant of pattadar passbook and title deed in favour of petitioner. The matter was decided by the appellate authority and later on confirmed by the revisional authority under Section 9 of the Act. The petitioner filed W.P.No.32696 of 2017 aggrieved by the orders of Joint Collector and Revenue Divisional Officer. On 09.11.2017, the said writ petition was allowed and the operative portion of the order reads as follows:-

“Both counsel for respondent No.6 and learned Government Pleader for Revenue do not dispute the legal position that appeal before the Revenue Divisional Officer challenging grant of pattadar pass books and title deeds to petitioner and seeking cancellation of the same, is not maintainable, in view of the decision referred supra. Therefore, it has to be held that respondent No.4 had no jurisdiction to pass order dated 28.05.2016 and that respondent No.3 could not have confirmed the same in revision.

Accordingly, the Writ Petition is allowed and the order dated 11.09.2017 of respondent No.3 as well as order dated 28.05.2016 of respondent No.4 are both set aside; and respondent No.6 is permitted to avail appropriate remedy in the appropriate forum challenging issuance of pattadar pass

book and title deed to the petitioner as well as survey report dated 02.12.2014 of respondent No.2.”

The 5th respondent now filed an application for grant of pattadar passbook and title deed for the land covered by Sy.No.28-A an extent of 0-62½ cents and Sy.No.37 an extent of Ac.1-37½ cents, total Ac.2-00 cents of Neerukonda Village, Mangalagiri Mandal, Guntur District. The petitioner filed the present writ petition challenging the notice dated 20.01.2018 issued by the 4th respondent.

Learned counsel for petitioner contends that entertaining of application of 5th respondent by 4th respondent is an abuse of process of law and for all purposes amounts to second round of litigation under the Act before respondents 2 to 4. According to petitioner, the 5th respondent ought to have filed a suit having regard to the liberty granted by this Court. Therefore, prays for appropriate reliefs.

Learned Assistant Government Pleader, on the contrary, contends that the petitioner challenges show-cause notice. The earlier round of litigation is against grant of pattadar pass book in favour of petitioner, whereas the 5th respondent now seeks issuance of pattadar passbook/title deed in her favour. The petitioner can certainly raise all objections including the necessity to go before the Civil Court for any relief vis-à-vis the land in Sy.No.28-A an extent of 0-62½ cents and Sy.No.37 an extent of Ac.1-37½ cents, total Ac.2-

00 cents of Neerukonda Village, Mangalagiri Mandal, Guntur District.

I have heard the counsel and perused the order in W.P.No.32696 of 2017, dated 09.11.2017 and also show-cause notice impugned in the writ petition. The order in the writ petition has left open the remedy of moving appropriate forum for the relief under the Act. There is distinction between giving liberty to a party to go before a Forum and taking note of the requirement of Section 8 of the Act relegating the parties to work out remedies before the Civil Court. The objection that the 5th respondent is required to file suit at this stage of the matter need not be entertained by this Court for show-cause notice is issued under the Rules. It is open to petitioner to raise all objections including why and how the 4th respondent cannot and could not decide this matter. If such reply is filed by petitioner, the 4th respondent, having regard to the keen contest between the petitioner and the 5th respondent, decides all the issues and passes orders. The petitioner, if has not submitted explanation as yet, is given two weekstime from the date of receipt of a copy of this order to submit explanation.

With the above observation, the writ petition is dismissed. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

S. V. BHATT, J

Dt: 12-02-2018
Prv

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