

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.4985 of 2018

ORDER:

It is the case of the petitioner that during the lifetime of his grandmother a DKT patta was issued by the then Tahsildar for an extent of Acs.4.59 cents in Survey Nos.659/2, 395/1, 395/3, 393/3 of Karvetinagaram Village and Mandal, Chittoor District on 30.09.1989. She was also issued pattadar pass books and title deeds for an extent of Acs.4.23 cents in the above survey numbers, except Survey No.393/3. She lived with her daughter, who is the mother of the petitioner, till her death. She executed a registered Will on 18.02.1998 in a sound and disposing state of mind and thereafter the fifth respondent appears to have obtained a Will on 25.07.2001 in favour of his wife. After coming to know the same, the grandmother of the petitioner executed an unregistered Will dated 27.09.2001 in the presence of witnesses by canceling the Will dated 25.07.2001 and bequeathed the land of Acs.4.23 cents in favour of the petitioner. The grandmother of the petitioner died on 19.01.2002. It appears that the fifth respondent applied for mutation of his name and issuance of pattadar pass books and title deeds in February, 2011, and the then Tahsildar submitted a report on 11.07.2011 stating that the land of an extent of Acs.4.23 cents is in possession and enjoyment of the petitioner by virtue of the Wills executed on 18.02.1998 and 27.09.2001. The fifth respondent filed O.S.No.56 of 2011 on the file of the

learned Senior Civil Judge, Puttur, against the petitioner based on the Will dated 25.07.2001 for declaration of his right and permanent injunction. The said suit was dismissed on 10.08.2017. It appears that at the instance of the fifth respondent, the fourth respondent issued a show cause notice on 02.02.2018 under Rule 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, in respect of the same land. Challenging the same, the present Writ Petition is filed.

Since the impugned notice is a notice issued under the provisions of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules and enquiry is pending before the fourth respondent, this Court is not inclined to entertain the present Writ Petition at this stage. The petitioner claims the land under two Wills and also states that the suit filed by the fifth respondent was dismissed. The petitioner claims his title under the Will executed by his grandmother and it is his contention that the said alienation will not attract the provisions of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act. However, this is a matter to be considered by the fourth respondent on the explanation submitted by the petitioner.

In view of the above, the Writ Petition is disposed of giving liberty to the petitioner to submit his explanation within a period of fifteen days from the date of receipt of a copy of this order to the fourth respondent indicating the nature of title and other contentions that may be available to the petitioner. The

fourth respondent shall consider the same and, after hearing the fifth respondent also, pass appropriate orders in accordance with law thereafter.

The Writ Petition is, accordingly, disposed of. The miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

16.02.2018

Note: Issue C.C in one week.

B/o.
vs

