THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION NO.26114 OF 2005

ORDER:

This writ petition is filed challenging the order of the Revenue Divisional Officer, Gudur, second respondent herein, in D.Dis(B2)/2032/05, dated 07.10.2005, whereunder he has cancelled the pattadar passbooks and title deeds issued by the Mandal Revenue Officer, Sullurpet Mandal, Nellore District, third respondent herein, in favour of late Chintha Jayaramaiah, who is the husband and father of the petitioners respectively, in respect of land admeasuring Ac.7-90 cents in Sy.Nos.26, 28 and 29 of Padamati Kandriga Village, Sullurpet Mandal, Nellore District.

2. The case of the petitioners is that they are the wife and son of late Chintha Jayaramaiah, respectively. During the life time of C.Jayaramaiah, he purchased the subject property for a valid sale consideration from one P.Jayarama Reddy under an agreement of sale dated 14.07.1988 and he was put into possession of the same. Later, upon the application made by C.Jayaramaiah, the third respondent caused enquiry, and after due satisfaction, collected the registration fee and stamp duty and validated the unregistered agreement of sale and issued a certificate in Form-13(B). The third respondent also issued pattadar passbook and title deed in favour of C.Jayaramaiah on 26.06.1997. Thereafter, C.Jayaramaiah breathed his last on 07.10.1999. After the demise of C.Jayaramaiah, the petitioners herein succeeded the subject property and have been in possession and enjoyment of the same.

While so, when adjacent landlady Smt.Chetamuri Ranemma tried to interfere with the subject property, the petitioners filed O.S.No.55 of 2001 on the file of the Court of Junior Civil Judge, Sullurpet seeking permanent injunction and the same was decreed by judgment and decree dated 30.06.2005 and the same has become final.

3. At that juncture, respondent Nos.4 and 5 filed O.S.No.27 of 2005 against the petitioners on the file of the Court of Senior Civil Judge, Gudur for permanent injunction stating that they have purchased the subject property from Smt.Chetamuri Ranemma under a registered sale deed dated 14.07.2004 and obtained pattadar passbooks and title deeds on 31.07.2004. The said suit was dismissed by judgment and decree dated 15.06.2001 and it has attained finality, as the same was not being challenged. Thus, there are two sets of pattadar passbooks and title deeds in respect of the subject property i.e., one set in favour of the petitioners issued in the year 1997 and the other set in favour of respondent Nos.4 and 5 issued in the year 2004. Later, respondent Nos.4 and 5 appears to have filed a petition under Section 9 of the Rights in Land and Pattadar Pass Books Act, 1971 (for short, the Act) before the District Collector, Nellore, first respondent herein, against the order of the third respondent regularizing the agreement of sale in favour of C.Jayaramaiah. The first respondent, vide his letter dated 28.05.2005, forwarded the petition to the second respondent to enquire and take necessary action in the matter. The second respondent, after perusing the records and after hearing the both

sides, vide impugned order dated 07.10.2005, held that referring the matter to the Sub-Registrar, Sullurpet in Form 13(A) by the third respondent for fixation of stamp duty and registration was not correct. He also held that the third respondent has passed orders in 13-B proceedings in favour of C.Jayaramaiah without enquiring the purchaser, seller as well as the Hamsaidars about the possession of the land. Accordingly, the second respondent, vide impugned order, set aside the 13-B orders of the third respondent dated 26.06.1997 and also cancelled the pattadar passbooks and title deeds issued by the third respondent in favour of C.Jayaramaiah. Challenging the same, the petitioners filed the present writ petition.

4. Heard.

5. Since the disputed questions of fact relate to the title of the subject property, it is not for this Court under Article 226 of the Constitution of India or to the Revenue Authorities to express any opinion or to pass any orders on the same. Insofar as alteration of revenue records is concerned, it becomes consequential to the judgment and decree of the competent Court, if decided in a suit for declaration of title. Though the petitioners succeeded in O.S.No.55 of 2001 and respondent Nos.4 and 5 lost their case in O.S.No.27 of 2005, they were filed seeking permanent injunction only, but not for declaration of title. No appeal has been preferred by the aggrieved party challenging the 13-B proceedings of the third

respondent and the pattadar passbook and title deed issued in the year 1997 in favour of late C.Jayaramaiah.

6. The order passed upon the petition filed under Section 9 of the Act by the second respondent is the one without jurisdiction, as the first respondent is only conferred with the revision powers under Section 9 of the Act. Nowhere in the impugned order, the second respondent has stated that he is proceeding in passing the order under Section 5-B of the Act. The order passed by the second respondent dated 07.10.2005 is the one without jurisdiction. The second respondent cannot read the mind of the first respondent as to what the first respondent has expected and pass orders, when the first respondent has not expressed any opinion.

7. In the facts and circumstances of the case, this writ petition is disposed of, setting aside the order of the second respondent in D.Dis(B2)/2032/05, dated 07.10.2005. The parties are at liberty to workout their remedies that are available to them under law. No costs. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: -02-2018
TJMR