

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

Writ Petition No.6712 of 2018

Order:

Heard learned counsel for the petitioner and learned Government Pleader for the respondents 1 to 3. In view of the nature of disposal of the Writ Petition, notice to the respondents 4 to 6 is dispensed with.

It is the case of the petitioner that he filed O.S.No.273 of 2009 on the file of the Principal Junior Civil Judge, Karimnagar seeking declaration of title and recovery of possession of the suit schedule property of an extent of Ac.0.29 gts., situated in Survey No.1117/B of Nusthulapur village, Thimmapur Mandal, Karimnagar District. The said suit was decreed against the respondents 4 to 6 on 23.04.2010. He filed E.P.No.5 of 2012 for execution of the decree and though the respondents 4 to 6 filed E.A.No.12 of 2012 seeking stay of the execution, the said application was dismissed on 17.08.2012. The warrants were executed by the Court Bailiff on 07.06.2014 and possession was delivered to the petitioner by conducting panchanama. Thereafter, the petitioner submitted an application to the third respondent for entering his name in the revenue records. When no action was taken, he submitted a representation before the District Collector on 16.09.2017 by enclosing copies of Court decree and other documents. The District Collector in turn addressed a communication to the Tahsildar on 21.10.2017 to take further action for implementing the judgment and decree in O.S.No.273 of 2009 as per the instructions issued by the Government from time to time. However, the third respondent issued a memo on 10.01.2018 holding that the petitioner is not in possession of the land and I.A.No.122 of 2012 in O.S.No.273 of 2009 is pending before the Court of Principal Junior Civil Judge, Karimnagar. In view of the same, he stated that it is not possible to

consider the request of the petitioner. Challenging the action of the third respondent in not entering the name of the petitioner in the revenue records, the present Writ Petition is filed.

This Court noticed that the petitioner did not challenge the memo issued by the third respondent on 10.01.2018. It appears from a perusal of the memo that the unofficial respondents objected to the mutation of the name of the petitioner and, in those circumstances, the memo was issued on 10.01.2018. But, as on the said date, a decree of the Court is in favour of the petitioner and the petitioner did not state with regard to nature of IA No.122 of 2012. It is not for the Tahsildar to decide the validity of the decree or rights of the parties, but he has come to a conclusion with regard to persons in possession of the land pursuant to the decree. He cannot reject the application of the petitioner by merely stating that the petitioner is not in possession of the land. The memo does not say as to who is in possession of the property.

In the circumstances, the impugned memo dated 10.01.2018 is set aside and the matter is remanded to the third respondent for conducting fresh enquiry by issuing due notice to the respondents 4 to 6 and considering the application of the petitioner in accordance with law within a period of four (4) weeks from the date of receipt of a copy of this order.

The Writ Petition is, accordingly, allowed. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this writ petition shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 07.03.2018
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