HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 3278 of 2015

ORDER:

1) The present Writ Petition came to be filed seeking issuance of writ of mandamus, declaring the action of the third respondent in making illegal entries in the revenue records in respect of land admeasuring Ac.20.22 gts., in Sy.No.823 of Peddachepayala Village of Mirdoddi Mandal, as arbitrary, erroneous and unlawful.

2) The petitioner claims to be the original pattadar, owner and possessor of the agriculture land admeasuring Ac.20.22 gts., in Sy.No.823 of Peddachepayala Village of Mirdoddi Mandal, Medak District. The father of the petitioner was a Farm Servant under Anantha Lakshmayamma, who had no issues. The father of the petitioner was looking after the land during her lifetime. Out of her own will, Anantha Lakshmayamma, executed a gift deed dated 21.01.1967, on a stamp paper in favour of the father of the petitioner and since then he is in possession of the same. Later, the father of the petitioner got the gift deed validated under 13-B of R.O.R. Act, 1971, as such the name of the father of the petitioner has been recorded in pattadar and possessor column. While things stood thus, the father of the petitioner sold Ac.6.00 of land to

Ponnala Komaraiah and Vadla Yellaiah, by way of un-registered sale deed dated 09.08.1975. However, as the purchasers were unable to cultivate the land on account of their inconvenience, the father of the petitioner is said to have re-purchased the said land from Ponnala Komaraiah and Vadla Yellaiah, under un-registered sale deed dated 30.09.1981 by paying the entire sale consideration. Since then the entire land is said to be in possession and enjoyment of the father of the petitioner. However, the respondents 4 and 5, without having any right over the property, got their names incorporated in the revenue records. It is stated in the affidavit that Gundamaneni Gangadhar is alleged to have purchased Ac.6.00 from Ponnala Komaraiah and Vadla Yellaiah, through un-registered sale deed, and sold the same to 5th respondent herein through sale deed dated 06.07.1984, suppressing the re-sale of the land. Later, respondents 4 and 5 got their names mutated in respect of the above land. It is stated that on an application made by the petitioner, the third respondent informed about the issuance of 13-B certificate to the 5th respondent and the petitioner was advised to get the same corrected before the appropriate forum. It is said that on account of his financial constrains, he could not file an appeal before the Revenue Divisional Officer, but however an application came to be filed before the

District Collector, on which, the petitioner was informed to file appeal against issuance of 13-B certificate. No appeal came to be preferred, but a revision under R.O.R.Act came to be filed before the 1st respondent, since the entries in the revenue records came to be made without notice to the petitioner and also 13-B certificate validating the sada bayana document have to be made though the petitioner has right over the property. The same is sought to be questioned in this writ petition on the ground that substantial rights of the petitioner were affected.

3) A counter came to be filed by respondents 4 and 5 disputing the averments made in the affidavit filed in support of the writ petition and also about the dismissal of the revision filed under Section 9 of the R.O.R. Act and the orders passed by the civil Court in O.S.No.106 of 2000 and A.S.No.15 of 2003. The counter also refers to O.S.No.244 of 2009, seeking declaration of title and for rectification of revenue records, which is identical to the relief sought for in the present writ petition. The I.A. filed in the said suit is dismissed and the appeal filed was also dismissed. Having regard to the above circumstances, it is stated that the request of the petitioner cannot be accepted.

4) As seen from the record, the petitioner sought for two reliefs. The first one being the illegality in the order passed

by the first respondent in case No.F3/2952/2013, dated 06.03.2014 and the alleged illegal entries made in the revenue records. Insofar as the order dated 06.03.2014 is concerned, it is to be noted here that though in para No.5 of the affidavit filed in support of the writ petition, it is stated that the District Collector, Medak directed him to file an appeal against the issuance of 13-B certificate on validating the Sada Bayana document, but strangely the petitioner herein preferred a revision under Section 9 of the Act. The said case was filed on 22.08.2013 and thereafter it is being adjourned to 26.09.2013, 31.10.2013, 16.12.2013, 30.01.2014, 06.02.2014 and finally to 06.03.2014, on which date the counsel for the revision petitioner was absent where as the counsel for the respondents 1 and 2 was called present. As the counsel for the revision petitioner did not contest the matter, in spite of giving number of opportunities, the said case was dismissed. The affidavit filed in support of the writ petition does not anywhere explains as to why the revision petitioner or his counsel was absent before the Collector and why no steps were take to prosecute the matter. Except challenging the order, no explanation is forthcoming as to why the petitioner failed to appear and prosecute the matter. In fact the learned counsel for the petitioner did not make any effort to explain the Court as to the reasons why the petitioner or his counsel failed to pursue the matter.

5) Insofar as the merits of the case namely, about the exclusion of the name of the petitioner and inclusion of the names of the un-official respondents and issuance of 13-B certificate, it is to be noted here that the issue about the right of the petitioner over the land came up for consideration before the civil Court on number of occasions. When there was interference by the writ petitioner in respect of the said property, the 4th respondent herein filed O.S.No.106 of 2000. Initially there was a temporary injunction, but subsequently the suit was dismissed. Aggrieved by the same, the 4th respondent preferred A.S.No.15 of 2003 and the same was allowed by the V Additional District Judge (FTC), Medak at Siddipet vide judgment dated 01.05.2004. It appears that the findings in the said judgment have become final, as no material is placed before the Court to show that the same was challenged before the higher Court.

6) The point No.2 framed in the said appeal is "whether there are any grounds to interfere with the judgment and decree of Junior Civil Judge at Siddipet in O.S.No.106 of 2000, dated 19.05.2003?' After considering the material on record, the appellate Court observed as under:

> "In view of my finding on point No.1, I hold that the plaintiff has established his *prima facie* title over suit schedule property. Plaintiff has also established his possession over suit schedule property as on the date of filing of the suit. Plaintiff is entitled to protect his possession from any kind of interference from the defendants."

7) Apart from that the father of the petitioner filed O.S.No.244 of 2009 on the file of the Principal Junior Civil Judge, Siddipet, seeking declaration of title and consequential relief for rectification of revenue records ie., the relief which is now sought in the present writ petition. In the said suit I.A.No.939 of 2009 came to be filed seeking interim junction, which was dismissed on 04.12.2009. Aggrieved by the same, C.M.A.No.48 of 2009 came to be filed, which was also dismissed on 15.09.2011 by the VI Additional District Judge, Siddipet. Thereafter, O.S.No.244 of 2009 which was re-numbered as O.S.No.18 of 2014 was dismissed for non-prosecution. The judgment in the said suit has become final. Therefore, the relief which is sought for, namely declaration of title and consequential injunction and for rectification of revenue records went against the writ petitioner.

8) From the above, it is clear that when the petitioner was not able to get appropriate orders in the civil Court and when C.M.A.No.48 of 2009 came to be dismissed on 15.09.2011, revisional jurisdiction of the Joint Collector came to be

invoked in the year 2013, challenging the amendment of entries in the revenue records dated 03.12.1995, which was also ultimately dismissed for non-prosecution. It appears to be a case where the petitioner in one form or the other filing cases and thereafter not pursuing the same. The material placed before the Court by the un-official respondents show that the name of the 4th respondent was appearing in the pahani from the year 2000-2001 itself. The basic register ie. 1-B also indicates the same. Therefore, the judgments and decrees suffered by the petitioner and his predecessors before the competent Court make him in-eligible to seek any relief in the writ petition.

9) Accordingly, the Writ Petition is dismissed. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.

JUSTICE C. PRAVEEN KUMAR

12.10.2018
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