

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION NO.7438 OF 2018

ORDER:

1. Heard the learned counsel for the petitioner, learned Government Pleader and the learned Counsel for the 6th respondent. As the 7th respondent is stated to be the vendor of the 6th respondent, the notice to the 7th respondent is dispensed with.

2. The case of the petitioner is that he purchased agricultural land admeasuring Ac.2.00 guntas in Survey No.207/1 of Datarpally Village, Yadagirigutta Mandal, Yadadri Bhongir district. It is also the case of the petitioner that the 7th respondent executed a General Power of Attorney in his favour on 7.7.2005. The petitioner claims to have purchased the property under registered sale deed on 24.2.2015 and he approached the 5th respondent for mutation of his name in the Revenue Records. The 5th respondent issued proceedings on 1.9.2015 mutating the name of the petitioner in the Revenue Records and issued pattadar passbooks and title deeds in his favour. The petitioner also states that he filed O.S.No.169 of 2015 against the 6th respondent on the file of the Junior Civil Judge, Aler, seeking perpetual injunction and the said suit was decreed on 12.2.2018. The 6th respondent claims to have

purchased the property under Registered sale deed dated 10.4.2012 from one Seesa Sagar Babu who claims to have purchased the property from the 7th respondent on 9.4.2012. However, challenging the order passed by the 5th respondent in favour of the petitioner on 1.9.2015, the 6th respondent preferred an appeal before the 4th respondent and the 4th respondent passed an order on 19.11.2016 confirming the orders of the 5th respondent. Challenging the same, the 6th respondent preferred a revision before the 3rd respondent and the 3rd respondent passed order on 30.1.2018 remanding the matter to the 5th respondent to conduct de novo enquiry. Challenging the same, the present Writ Petition is filed.

3. Learned counsel for the petitioner submits that the 5th respondent passed an order on 1.9.2015 after following due procedure, whereas the impugned order of the 3rd respondent dated 30.1.2018 shows that the 5th respondent has not followed the due procedure. The relevant observations of the 3rd respondent are as follows:

“4. As per the procedure laid down u/s 5(3) of Telangana Rights in Land & PPB Act, 1971, whenever an intimation is received about acquisition of rights, the recording authority i.e., Tahsildar shall issue notice in form No.VIII and serve on all the interested persons calling for their objections on the proposed mutation.

Evidently the appellant is interested person in the subject land being purchaser through registered sale deed No.2559/2012 which is prior to the sale deed of respondent No.1 and therefore serving of notice on him is must. The finding of the lower court that the Tahsildar cannot smell purchase of the land by the appellant in the absence of any entry in the records is wrong. The registration date is very much available online in addition to the intimation given to the Tahsildar from the sub registrar under rule 18(2) in form VI-B. It is the duty of the recording authority to ascertain the details of interested persons from the encumbrance certificate.

5. The form VIII notice is required to be served in the manner prescribed under rule 5(2) as held by the Hon'ble High Court in 2007 (6) 134 FB. The Tahsildar cannot be discharged from his duty in serving notice on the petitioner, who is bonafide purchaser of the subject land during 2012 much prior to sale deed of respondent No.1, on the ground his name is not found in Revenue Records when the sale data is very much available online in addition to intimation under rule 18(2). Therefore I am differing with the conclusion of appellate authority that the Tahsildar cannot smell about purchase of the land by the petitioner in the absence of any entry in the absence of any entry in the revenue records as wrong."

4. In view of the non-compliance of the procedure by the 5th respondent, this Court sees that the order passed by the 3rd respondent on 30.1.2018 does not need interference by this Court. Now the matter is remanded to the 5th respondent for conducting a de novo enquiry and it is needless to observe that the 5th respondent shall issue appropriate notice to the petitioner as well as the 6th respondent, conduct an enquiry and pass appropriate orders in accordance with law, within three months stipulated by the 3rd respondent in his order.

5. Writ Petition is accordingly, dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.


A. RAMALINGESWARA RAO, J

Date: 13.3.2018

KPM