

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

W.P.NO.2765 OF 2006

ORDER:

This writ petition is filed by the petitioner to declare the action of the respondents 1 and 2 in regularising the alleged alienation of land admeasuring Ac.1.79 cents in RS.No.96/4 and 96/1D of Kankipadu village in Krishna District belonging to petitioner in favour of late P.Subba Rao vide certificate dated 25-7-1995 and the registration of the same vide order dated 26-7-1995 under the provisions of Act, 26 of 1971 as arbitrary, illegal, and consequently aside the same.

2. Heard Ms.K.Krishnaveni, learned Assistant Government Pleader for Revenue (Andhra Pradesh). Since the matter pertains to the year 2006, this Court constrained to proceed with the case and dispose of the same on merits.

3. It is the case of the petitioner that his mother namely late K.L.Sarojini was the absolute owner and possessor of the land admeasuring Ac.1.52 cents in Rs.No.96/4 and an extent of Ac.0.27 cents in RS.No.97/1D, total admeasuring Ac.1.79 cents, situated in Kankipadu village and Mandal of Krishna District. Taking advantage of her old age, one Pattela Subba Rao i.e., husband of respondent No.3 and father of respondents 4 and 5 concocted and fabricated an agreement of sale dated 11-2-1989 stating that his mother agreed to sell an extent of Ac.1.98 cents of land for a total consideration of Rs.72,270/- and execute regular sale deed on payment of balance sale consideration. On the strength of the above agreement of sale, the said P.Subba Rao filed an application

under Section 5-A of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short, “the Act”) before the 2nd respondent for regularization of the alleged alienation and that the second respondent without causing any further enquiry, issued a certificate under Section 5-A of the said Act to said Subba Rao on 25-7-1995.

4. It is seen from the counter affidavit and as per the submissions of the Assistant Government Pleader for Revenue (Andhra Pradesh) that disputed questions of facts are involved in this case and a civil suit in O.S.No.786 of 1997 on the file of the III Additional Junior Civil Judge, Vijayawada is pending. As there are and as the petitioner has not approached this Court with clean hands and has not exhausted the alternative remedy available under Section 5-A of the Act, the writ petition is liable to be dismissed without going into the merits of the case.

5. In view of the petitioner having alternative remedy under the Act, the writ petition is dismissed, without expressing any opinion on the merits, giving liberty to the petitioner to avail the alternative remedy available to him under law. No order as to costs. As sequel, the miscellaneous petitions pending if any shall stand closed.

T.AMARNATH GOUD,J

Date: 08-06-2018
Shr