

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION Nos.12424 and 12457 of 2018

COMMON ORDER:

Heard Mr.Achuta Reddy for petitioners, Mr.V.Hanumantha Rao for 3rd respondent in W.P.No.12424 of 2018 and the learned Assistant Government Pleader for Revenue.

The issue arises under the A.P.Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act').

The petitioners assail the order dated 09.03.2018 issued by the 2nd respondent under Section 9 of the Act.

The petitioners during pendency of writ petition filed O.S.No.48 of 2018 seeking the relief of declaration of title, permanent injunction and partition of plaint schedule property. The petitioners have also filed I.A.No.113 of 2018 for the relief of ad-interim injunction restraining the defendants therein from alienating the plaint schedule property. The 3rd respondent in W.P.No.12424 of 2018 is arrayed as 1st defendant in the said suit.

Mr.Hanumantha Rao appearing for 3rd respondent in W.P.No.12424 of 2018 draws the attention of the Court to Section 8 of the Act, which reads as follows :-

Bar of suits :- No suit shall lie against the Government or any officer of Government in respect of a claim to have an entry made or in relation to any entry made in any record of rights or to have any such entry omitted or amended.

(2) If any person is aggrieved as to any rights of which he is in possession by an entry made in any record of rights he may institute a suit against any person denying or

interested to deny his title to such right for declaration of his right under Chapter VI of the Special Relief Act, 1963 (Central Act 47 of 1963) and the entry in the record of rights shall be amended in accordance with any such declaration.”

and contends that the petitioners since have availed the remedy of suit for both substantive and alternative prayers, the consideration of issue by this Court firstly is unnecessary, secondly either way namely whether the prayer for declaration is accepted or the prayer for partition of plaintiff schedule property is accepted, the entries under the Act are required to be maintained as per the decision of Civil Court.

Mr. Achuta Reddy does not dispute the scope and object of Section 8 of the Act. However, he tries to convince the Court that the interim order granted by this Court on 30.04.2018 is directed to be continued vis-à-vis the record of rights for the subject matter of order impugned in writ petitions.

I have perused the plaint in O.S.No.48 of 2018 and the prayer made in I.A.No.113 of 2018.

This Court in *MUSKU MALLAIAH Vs. STATE OF ANDHRA PRADESH, REVENUE DEPARTMENT*¹, had occasion to consider the scope and object of Section 8 of the Act and also how the entries are maintained after the adjudication of rights between the parties by competent Civil Court.

Keeping in view the scope of Section 8 of the Act and the view taken by this Court in *MUSKU MALLAIAH's* case (supra), this

¹ 2004 (6) ALT155 (DB)

Court is convinced that at this stage of the matter, examination of legality or otherwise of the order of 2nd respondent impugned in writ petitionsought to be avoided.

Now adverting to the request of Mr.Achuta Reddy that the interim order granted by this Court on 30.04.2018 may be directed to be maintained during pendency of the suit, this Court is of the view that the petitioners herein since are plaintiffs in O.S.No.48 of 2018, the petitioners are well advised to work out all the interlocutory prayers relating to the subject matter of the suit before the learned trial Judge. On the other hand, if this Court acceptsthe request of petitioners, it results in an anomalous situation namely the lis for all purposes is examined by the trial Court, but interlocutory orders are passed by this Court. This Court is not adopting such procedure.

Hence, the writ petitions fail and the same are accordingly dismissed. The dismissal of writ petitions shall not be understood as this Court has refused to consider any of the prayers made by the petitioners herein. It is made clear that since the lis is pending before the trial court, it is for the learned trial Judge to examine the case on its own merits.

Miscellaneous petitions, if any, pending, shall stand closed.
No order as to costs.

S. V. BHATT, J

Dt: 25.07.2018
Prv

