

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NO.644 OF 2016

ORDER:

This writ petition is filed by the petitioner under Article 226 of the Constitution of India, challenging the proceedings dated Rc.No.M/492/2015 dated 10.02.2015 passed by the third respondent, directing the petitioners to appear before the Revenue Divisional Officer, Kothagudem, in connection with the enquiry on the application made by one Kethumalla Srinviassa Rao for altering the entries in revenue records and title deeds, on the ground that the Revenue Divisional Officer is not competent to make an enquiry under the A.P. Rights in Lands and Pattadar Passbooks Act, 1971 (for short 'the Act'), and at best, the Tahsildar/4th respondent is the competent authority to conduct necessary enquiry for modification of the entries in the record of rights. Therefore, it is prayed that the proceedings in Rc.No.M/492/2015 dated 10.02.2015 passed by the third respondent are illegal and requested to set-aside the same.

During hearing, learned counsel for the petitioners drawn attention of this Court to Section 3(3) of the Act to contend that the Tahsildar alone is competent to prepare and update the record of rights in all lands.

Learned Government Pleader for Revenue (A.P) contended that the 3rd respondent/Revenue Divisional Officer, being the Appellate Authority is entitled to enquire into the matter, but, in case the Court finds that he is incompetent, direction may be given to the 3rd respondent/Revenue Divisional Officer to refer the

application of Kethumalla Srinivasa Rao to the competent authority to conduct an enquiry.

Admittedly, the notice was issued by the 3rd respondent/Revenue Divisional Officer, to enquire as to the title of the property on the application made by the 5th respondent/Kethamalla Srinivasa Rao and necessary enquiry has to be conducted only by Tahsildar to make enquiry or updating entries under Section 3(3) of the Act.

Section 3 of the Act deals with preparation and updating of record of rights in all lands. Sub-section (1) deals with general power to maintain the record of rights as prescribed under the Act. Sub-section (2) deals with preparation of the record of rights referred to in sub-section (1) is completed; the fact of such completion shall be notified in the Andhra Pradesh Gazette and in such other manner as may be prescribed. Sub-section (3) is relevant for deciding the present issue. According to Sub-section (3), any person affected by an entry in such record of rights may within a period of one year from date of the notification referred to in sub-section (2), apply, for rectification of the entry to such officer as may be prescribed. The said officer may, after such inquiry as may be prescribed, give his decision on such application and direct the rectification of the record of rights in accordance with such decision which shall subject to the provisions of Section 9, be final.

Thus, a revision is provided under Section 9 against the order of Tahsildar under Section 3 of the Act. If, any person affected by an entry in such record of rights, he may within a period of one year from date of the notification referred to in sub-

section (2), apply, for rectification of the entry to such officer concerned and thereupon, the said officer after necessary inquiry, give his decision on such application and direct the rectification of the record of rights in accordance with such decision which shall subject to the provisions of Section 9, be final. Instead of making an application to the Tahsildar under Section 3(3) of the Act, a representation is made to the 3rd respondent/Revenue Divisional Officer, who is unconcerned with preparation and updating of record of rights in all lands and he seized the jurisdiction of Tahsildar and issued the impugned notice, though, the Tahsildar alone is competent, subject to revision under Section 9 of the Act. Therefore, issuing notice dated 10.02.2015 directing these petitioners to appear before the authorities is illegal without any authority.

Hence, the proceedings dated Rc.No.M/492/2015 dated 10.02.2015 passed by the third respondent is set-aside and the 3rd respondent/Revenue Divisional Officer is directed to refer the application made by the 5th respondent/Kethamalla Srinivas Rao under Section 3(3) of the Act to the competent authority and if, the authority under Section 3(3) of the Act found that any enquiry is required to be made, he is directed to follow the procedure contemplated under the Act and pass appropriate orders in accordance with law.

With the above direction, the writ petition is disposed of.

Consequently, miscellaneous applications pending if any, shall stand closed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:16.04.2018

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