

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT PETITION No.685 OF 2014

ORDER:

The petitioner seeks writ of mandamus declaring the action of the 4th respondent, who is the Tahsildar, Kuderu Mandal, Anantapuram District, in taking steps for issuance of pattadar passbook and title deed in respect of Survey No.444/1 in an extent of 21 Acres situated in Kuderu Village and Mandal, Anantapuram District as illegal, arbitrary and consequently, direct the 4th respondent not to issue pattadar passbooks and title deeds in respect of aforesaid land to the 5th respondent.

2. (a) Petitioners case, in brief, is that originally an extent of 21 Acres in Survey No.444/1 of Kuderu Village and Mandal, Anantapuram District, was purchased by G.Subba Rayudu in the year 1943 from Talari Mallobilesu and Talari Chinna Obulappa and subsequently, said Subba Rayudu sold 12 Acres to petitioners in the year 1987 and petitioners have been in enjoyment of the same. While so, 5th respondent filed partition suit claiming 1/3rd share within 21 Acres, wherein a preliminary decree was passed on 15.04.1994 and subsequently, appeal was filed in A.S.No.101 of 2000 on the file of the Court of Senior Civil Judge, Anantapur and the same was dismissed on 11.11.2002 with the observation that petitioners got sale deed from the 1st defendant in the suit

and the same was not binding on the petitioner to an extent of 7 Acres. Thereupon, the 5th respondent and others filed writ petition No.14833 of 2008 in respect of the suit schedule property and the same was dismissed on 10.09.2008 with the observation that since the matter was seized by the Civil Court, no order can be passed in the writ petition.

(b) The further case of the petitioners is that the 5th respondent filed writ petition No.33397 of 2013 with a prayer that the District Collector, Anantapur, is not disposing the representation made by him and others, dated 20.06.2011, for issuance of pattadar passbook in respect of Acres 10.50 cents in Survey No.444/1, wherein this Court was pleased to pass an order that the writ petitioners were permitted to file applications in Form VI(A) for issuance of pattadar passbooks and title deeds within a period of two months of receiving such applications, respondent No.4 therein i.e., The Tahsildar, Kuderu Mandal, Anantapur District, shall hold an enquiry, take an appropriate decision and communicate the same to the petitioners.

(c) Taking advantage of the directions issued by the High Court in the aforesaid writ petition, the 5th respondent filed application under Form VI(A) for issuance of pattadar passbook and the petitioners came to know that the 4th respondent, without issuing notice to the petitioners and conducting an enquiry, is contemplating to issue pattadar

passbooks to 5th respondent behind the back of the petitioners.

Hence, the writ petition.

3. Learned Government Pleader for Revenue takes notice for official respondents 1 to 4. Notice sent to the unofficial 5th respondent returned unserved. Counter filed on behalf of respondents 1 to 4, wherein, it is stated that the 4th respondent has not issued any pattadar passbook/title deed to 5th respondent so far and no such efforts were also made by the 4th respondent. Action has been taken by the 4th respondent as directed by this Court in writ petition No.33397 of 2013, directing the 4th respondent to take action under ROR Act, 1989 and dispose of the petition within two months on receiving such application. As such, the 4th respondent, pursuant to the said order, issued notices to both the petitioners and 5th respondent on 31.01.2014 to appear before him in person or through their counsel. In the counter, it is avouched that the 4th respondent would go strictly as per the ROR Rules, 1989.

4. Heard.

5. In view of the counter averments made by respondents 1 to 4 as stated supra, this writ petition is disposed of directing the 4th respondent to hold the enquiry under ROR Rules, 1989 by issuing prior notice to the petitioners as well

as 5th respondent herein and pass an order in accordance with the Rules expeditiously. No costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

30.11.2018
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