

THE HON'BLE SRI JUSTICE S.V.BHATT

W.P. Nos.10357 & 9149 of 2017

COMMON ORDER:

Heard Mr.Raja Gopallavan Tayi for petitioner in W.P.No.9149 of 2017; Mr.E.V.V.S.Ravi Kumar for petitioners in W.P.No.10357 of 2017 and the learned Assistant Government Pleader for respondent Nos.1 to 4.

The subject matter of writ petitions relates of R.S.No.660/2 Ac.1.94 cents; R.S.No.653/1 Ac.2-20 cents; R.S.No.661 Ac.2-20 cents; R.S.No.661 Ac.2-20 cents; R.S.No.660/1 Ac.0.64 cents; R.S.No.661 Ac.0.78 cents; R.S.No.653/1 Ac.0.78 cents at Kalla Village and Mandal, West Godavari District.

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

W.P.No.9149 2017 is filed by one Alluri Anasuya complaining against inaction of respondent No.4 in implementing the order dated 29.12.2009 of Sub-Collector, Narsapur/3rd respondent as confirmed by the Joint Collector vide order dated 03.12.2016, as illegal and amounts to refusing to exercise the jurisdiction conferred on 4th respondent under the Act.

W.P.No.10357 of 2017 is filed by Bandaru Venugopal, son of late Mahankali and 6 others for *writ of certiorari* to call for the records leading upto the order dated 03.12.2016 in case No.19602/2016 (D8) dated 08.01.2017 from the file of Joint Collector, Eluru and quash the same, as illegal and unconstitutional.

The learned counsel appearing for the parties have stated that the prayer in W.P.No.10357 of 2017 can be treated as substantive prayer for consideration of this Court and subject to the outcome of W.P.No.10357 of 2017, W.P.No.9149 of 2017 can be disposed of. Hence, the circumstances which are relevant for disposing of the W.P.No.10357 of 2017 are adverted to.

Mr.E.V.V.S.Ravi Kumar keeping in perspective, the findings of fact recorded by both the Joint Collector, Eluru and Sub-Collector Narsapur in dealing with the issue of maintenance of record of right and 1-B register does not challenge the findings recorded both by the appellate authority vis-à-vis, the entries made in favour of petitioners in W.P.No.10357 of 2017. He tries to persuade this Court against the direction issued by the appellate authority for prosecution against the petitioners in W.P.No.10357 of 2017. Alluri

Anasuya-5th respondent herein filed appeal before 3rd respondent herein against the orders passed by Tahsildar, Bhimavaram in favour of petitioners herein for the subject matter of the writ petition. The Sub-Collector examined the record from the Office of Tahsildar, Kalla Mandal, allowed the appeal and issued the following direction to Tahsildar, Kalla:

“Whereas the respondents (petitioners herein) have submitted fictitious patta copies relating to petition schedule land, the Tahsildar Kalla is hereby instructed to file criminal case against the respondents for deceiving the authorities duly submitting fabricated D.Patta copies.”

Mr.Ravi Kumar tries to convince this Court by referring to the dispute in O.S.No.80 of 1999 which was decreed on 20.01.2010 against which A.S.No.114 of 2010 is pending in this Court. Therefore, prosecution at this stage, ought to be avoided and the same may amount to abuse of process. He prays for indulgence of the Court and seeks expunging the direction issued by Sub-Collector to Tahsildar to initiate prosecution.

Mr.Raja Gopallavan Tayi contends that no ground is made out for this Court to interfere against the order impugned in the writ petition, a consequential direction

issued, keeping in view the other findings recorded by the authorities, cannot and could not be interdicted by this Court under Article 226 of Constitution of India. According to him, the case on hand stands as a rarest of rare examples where some action has been initiated against individuals who tried to produce forged and fabricated documents in support of their cases. Further as the authorities are satisfied that their signatures either are forged or fabricated, this Court ought not to exercise discretion of jurisdiction under 226 of Constitution of India.

The Assistant Government Pleader for Revenue substantially reiterates the objections raised by 5th respondent for expunging the direction of appellate authority to Tahsildar to initiate prosecution. For brevity, I am not proposing to record the contention of Assistant Government Pleader once again.

I have taken note of the limited submissions made by the parties in this behalf and perused the record.

One of the grounds urged by Mr.Ravi Kumar is that civil dispute in O.S.No.80 of 1999 is pending between the petitioners and 5th respondent herein, therefore ordering prosecution at this stage of the

matter ought to be avoided by this Court. Though he has not canvassed that prosecution is ordered, is one of the issues before the competent civil court is decided against petitioners.

I have perused the judgment in O.S.No.80 of 1999. The suit is filed for declaration of title; for recovery of possession and also for recovery of lease amount etc. The issues framed in O.S.No.80 of 1999 are excerpted for appreciating the contentions raised by Mr.E.V.V.S.Ravi Kumar:

“ISSUES NO.1 to 4:

1. Whether the plaintiff is entitled for declaration that the plaint schedule property belonged to here and is entitled for recovery of possession after evicting there from?
2. Whether the defendant is liable to pay Rs.5,07,000/- towards past rentals and damages for use and occupation?
3. Whether the defendant is liable to pay future profits as prayed for?”
4. Whether the defendant alone got right over the plaint schedule land as contended, by defendant?”

After taking note of the issues, this Court is of the view that the civil dispute which is the subject matter of O.S.No.80 of 1999 has nothing to do with pattadar passbooks or orders passed while issuing pattadar passbooks to them. Therefore, the first premise on

which the prayer for expunging direction the appellate authority to prosecute is not convincing to this Court and the first contention is rejected.

The Sub-Collector issued direction initiating prosecution against the persons who are relying on fabricated documents. This aspect of matter when brought to the notice of Joint Collector, the Joint Collector has examined the case, vis-à-vis fabrication and D-form patta etc and recorded thus:

“. Sri Bandaru Venugopalarao has stated that he purchased the disputed lands from one Sri Pasupuleti Siva Ramakrishna who got the registered a special General Power of Attorney from Alluri Anasuya w/o Rajeevraju and her husband.

. In another side, he produced D-pattas for the above dispute lands showing that the pattas were granted to his family members i.e., 2) Bandaru Satyavathi Wife 3) Bandaru Padmarao 4) Bandaru Mareswararao 5) Bandaru Srinivarao 6) Bandaru Ramesh.

. It is observed that the individuals 4th, 5th and 6th are minors and unmarried at the time of grant of pattas and there is no record about the authenticity of the copies of pattas submitted by the petitioner. The signatures on the pattas with date 03.09.1986 resemble the signature of P.Isreal Raju, who worked as MRO Kalla from 27.08.1987 to 04.10.1988.

. The Sub Collector, Narsapur opined that, the lands were not assigned to B.Venugopalrao and his family members. More over the signatures on the pattas are not similar to that of the MRO who worked on 03.09.1986 and that there is no record relating to

the said pattas at Tahsildar Office, Kalla. Hence, the pattas might have been created for obtaining PPBs and TDs duly misrepresenting before the authorities.

. In view of the above, the Sub-Collector, Narsapur has decided that Sri Bandaru Venugopalarao have submitted fictitious patta copies on the above lands, hence the Tahsildar Kalla is instructed to file criminal case against Sri Bandaru venugopalarao for deceiving the authorities duly submitted fabricated D-Patta copies.”

The revenue authorities, once are of the view that the seals maintained by them and signatures of their officers are put to use by the petitioners herein, the officials are justified in setting in motion prosecution. Therefore, a direction is issued to initiate prosecution against the persons who relied on forged and fabricated documents. It could be one thing, if the petitioners can satisfactorily demonstrate that the documents on which they are relying are genuine and invite finding to that effect and seek setting aside the direction to prosecute, but as a matter of course, the direction issued for prosecution can't be considered by this Court and set aside. Once the findings recorded by either the revisional authority or appellate authority could not be successfully challenged, the challenge to the direction issued for prosecution is equally not made out.

Therefore, the petitioners in W.P.No.10357 of 2017 have not made out a ground to interfere with the orders impugned in writ petition. Writ petition No.10357 of 2017 fails and accordingly dismissed. No order as to costs.

In W.P.No.9149 of 2017, petitioner herein prays to restore entries standing in her name pursuant to the proceedings which are assailed in Writ Petition No.10357 of 2017. Once the orders of revisional and appellate authority are confirmed, the 4th respondent is under obligation to restore status quo ante both in 1-B register and also issue PPBs to petitioner in W.P.No.9149 of 2017

Accordingly, W.P.No.9149 of 2017 is ordered and a direction would go to the 4th respondent to restore the name of the petitioner in revenue records and as is deemed fit and proper, issue pattadar passbooks, title deeds to her within four (04) weeks from the date of receipt of copy of this order. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

S. V. BHATT, J

Dt: 16.04.2018
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