

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 27518 OF 2007

ORDER:

Challenging the orders of the 1st respondent in Case No.D5/4703/2006, dated 16.10.2007, confirming the orders of the 2nd respondent in File No.A2/4059/1997, dated 24.03.1998, who in turn remanded the case by setting aside the orders of the 3rd respondent in File No.D/338/1994, dated 17.01.1994 the present Writ Petition is filed.

2) It is not necessary for this Court to narrate the facts except to state that rival claims were made before the 3rd respondent-Tahasildar, Maheshwaram Mandal, seeking mutation of the respective parties' names in the revenue records. Initially the order came to be passed in favour of the petitioners by the 3rd respondent, which came to be challenged before the 2nd respondent-Revenue Divisional Officer, Ranga Reddy East Division. The 2nd respondent, on consideration of the material placed before him and particularly considering the various objections, raised by the 4th and the 5th respondents, allowed the appeal, in exercise of the powers under Section 5(5) of the Andhra Pradesh Record of Rights in Land and Pattedar Pass Books Act, 1971 (in short "the ROR Act") and remanded the matter for fresh consideration by the 3rd respondent. The said order came to be challenged before the 1st respondent-Joint Collector, under Section 9 of the ROR Act. The 1st respondent, on appreciation of the material on record concurred with the findings recorded by the 2nd respondent, particularly, the finding that the order of the 3rd respondent granting mutation in favour of the petitioners is a non-speaking

order and passed without consideration of the objections that were raised by the 4th and the 5th respondents, and hence did not interfere with the orders of the 2nd respondent. The petitioners challenged the said orders of the 1st respondent.

3) The facts, as set out, in brief, are reiterated in the Writ affidavit. This being the Writ of Certiorari, no counter affidavit is filed by the respondent officials. However, the learned Government Pleader has placed on record the information provided by the Deputy Tahasildar, representing the 3rd respondent, on 16.04.2018, to the effect that after remanding the matter, necessary entries were restored in favour of the 4th and the 5th respondents with respect to Sy.No.121 over an extent of 2-19 guntas.

4) The specific submission of the learned counsel for the petitioners that the interference of the orders of the 3rd respondent by the 2nd respondent were unwarranted and further, even assuming that the order of the 3rd respondent was required to be set aside, there was no order made by the 2nd respondent while remanding the matter to the 3rd respondent to conduct *de novo* enquiry and to the similar effect is the order of the 1st respondent. In those circumstances, the order is liable to be set aside.

5) None appeared on behalf of the 4th and the 5th respondents.

6) Having considered the submission of the learned counsel for the petitioners, this Court does not find any merit in the case of the petitioners. At the outset, it may be noted that the appeal came to be filed by respondents 4 and 5 specifically alleging that they were not issued notices and were not heard. In the appeal, it was specifically averred that they were the pattedars of the land in

Sy.No.121 of Mansanpally Village and they are in possession of the said land since long time and after expiry of their husband the suit lands were mutated in the names of the petitioners without giving any notice whatsoever to them. No documents were produced to make entries in favour of the petitioners and there was no sale, as claimed by the petitioners, and the claim of the petitioners that they had purchased the lands through an unregistered sale deed was incorrect.

7) When these grounds were raised, the petitioners failed to meet the challenges on the facts before the 2nd respondent and the impugned order specifically discloses that in spite of the notice having been given to the petitioners on 20.09.1997, 18.10.1997, 29.11.1997, 03.01.1998, 20.02.1998, none appeared on their behalf. In those circumstances, based on the material available and finding that the 4th and the 5th respondents were not given notices and no speaking order was passed, the 2nd respondent remanded the matter to the 3rd respondent stating that he should take necessary action accordingly. This order of the 2nd respondent came to be affirmed by the 1st respondent categorically stating that the 3rd respondent failed to give reasons for validating the unregistered transaction, dated 17.01.1994.

8) Without any reasons being stated on record, setting aside of the orders of the 3rd respondent by the 2nd respondent, as affirmed by the 1st respondent, is to the effect that the 3rd respondent is required to conduct a *de novo* enquiry as the claim made by the petitioners stands rejected by the respondent revisional authority. Since no material has been placed as to whether any *de novo* enquiry has been conducted or not, this Court is unable to express

any opinion on the same. In these circumstances, the petitioners ought to have taken necessary steps, if they are aggrieved, by approaching the 3rd respondent seeking hearing of the matter afresh.

9) The Writ Petition is, accordingly, dismissed. There shall be no order as to costs.

10) Miscellaneous petitions pending, if any, shall also stand dismissed.

CHALLA KODANDA RAM, J

Date: 17.04.2018

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