

HON'BLE SRI JUSTICE S.V. BHATT

W.P.No.17263 OF 2018

ORDER:

Heard Mr.C.B.Ram Mohan Reddy for petitioner, the learned Assistant Government Pleader (Revenue) for respondents 1 to 4 and Mrs.Y.L.Siva Kalpana Reddy for respondent Nos. 5 and 6.

The issue arises under Section 9 of the A.P. Rights in Land and Pattadar Passbooks Act, 1971 (for short 'the Act'). The learned counsel appearing for the parties have made their submissions on the order of 2nd respondent in Case No.D.Dis.F3/1535/2017 dated 27.03.2018. The principal ground of petitioner against the order impugned in the writ petition is that the order of 2nd respondent does not conform to the jurisdiction conferred by Section 9 of the Act and is a statistical disposal. At any rate, while confirming the order of the Revenue Divisional Officer/3rd respondent, no effort is undertaken by 2nd respondent in appreciating the legality, propriety or correctness of entries in 1-B register or the conclusions recorded by the 3rd respondent. The petitioner for the proposition under Section 9 of the Act relies on the decision of this Court reported in KURUVA HANUMANTHAMMA v. PRINCIPAL SECRETARY, REVENUE DEPARTMENT, HYDERABAD AND ANOTHER¹.

The Assistant Government Pleader submits that the petitioner before raising grounds against the order impugned in the writ petition ought to satisfactorily explain for the absence of petitioner's counsel at the hearing on 17.03.2018. The order impugned is a confirming order and he suggests that this Court has to read the

¹ 2018(1) ALD 290

orders of 2nd and 3rd respondents together to understand whether the orders suffer from illegality, impropriety, irregularity etc.

Mrs. Kalpana Reddy adopts the arguments of Assistant Government Pleader and contends that the appeal filed by petitioner does not satisfy the requirements of the Act. The appeal filed by petitioner bristles with several omissions. The Appellate Authority considered the case of writ petitioner referring to the case as stated before him and the documents relied on by the petitioner. According to her, the petitioner miserably failed to point out an error apparent on the face of the record. Therefore, she prays for dismissing the writ petition.

I have heard the learned counsel and perused the record.

The following point arises for consideration:

“Whether the order of Joint Collector dated 27.03.2018 conforms to the revisional jurisdiction conferred on 2nd respondent or not?”

For appreciating the rival contentions, the Court finds it convenient to excerpt the succinct order pronounced by 2nd respondent which reads thus:

“ENQUIRY DETAILS:

The case was first heard on 17.02.2018 and further on 03.03.2018 and 17.03.2018 by the undersigned. On 17.02.2018, 03.03.2018 & 17.03.2018, the Advocate for respondents is present and the Advocate for petitioner is absent.

ORDER:

Heard the case and perused the records. On 17.02.2018, 03.03.2018 and 17.03.2018, with reference to the material submitted by them and the order of the RDO, Gudur have been perused. As seen from the order of the Revenue Divisional Officer, Gudur it is observed that the RDO has passed orders with

regard to land measuring an extent of Ac.40-36 cents situated in Sy.No.743 to 800 of Kadivedu Village of Chillakur Mandal vide D.Dis.No.110/2016, dated 09.10.2017 and the orders are in accordance with law and provisions laid down under the A.P. Rights in Land and Pattadar Pass Books Act, 1971 and amended thereon. I do not see any reason to interfere in the order passed by the Revenue Divisional officer, Gudur as it is intact. Therefore, the order passed by the RDO, Gudur is hereby holds good.

In view of the above observations, the Revision petition filed by Sri M.Siva Kumar Reddy is hereby dismissed and the orders of the Revenue Divisional Officer, Gudur are upheld”.

The petitioner in Ground No.2 raised in writ affidavit states as follows. To appreciate the circumstances for the absence of counsel for writ petitioner, it is stated thus:-

“The 2nd respondent while deciding the matter under revisional jurisdiction has not chosen to provide opportunity of hearing while enquiring into the matter to the petitioner. The revision was posted on 17.03.2018 and the advocate of the petitioner was waiting through out the day and the 2nd respondent came to the office at about 5 PM and without even hearing the counsel for the petitioner reserved the matter for orders. The petitioner submits that the 2nd respondent was under the orders of transfer and in his anxiety to decide the matter failed to give opportunity to the petitioners advocate. The order under challenge cannot be sustained.”

Be that as it may, the petitioner challenges the order of 2nd respondent as not conforming to the revisional jurisdiction conferred by Section 9 of the Act. The fulcrum of consideration of this contention is dependant on consideration of legality, propriety, regularity etc., by the 2nd respondent. The 2nd respondent is under obligation to call for the records from the offices of 3rd and 4th respondents and satisfy himself whether one or the other ground on which the revisional jurisdiction can be entertained is made out

by a party or not. When this Court records the above finding, it shall not be understood that this Court expressed a view on the merits of the rival claims of petitioner and respondent Nos.5 and 6.

This Court in exercise of power of judicial review since is not convinced that the 2nd respondent exercised the jurisdiction in the manner in which the section has conferred authority on 2nd respondent, the order impugned in the writ petition is set aside. Accordingly, the order dated 27.03.2018 is set aside and the matter is remitted to 2nd respondent for consideration and disposal in accordance with law after giving reasonable opportunity to both the parties, as expeditiously as possible, preferably within three months from the date of receipt of a copy of this order.

The writ petition is, accordingly, ordered as stated above. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT, J

31st July, 2018
Lrkm