HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.20164 of 2007

ORDER:

This writ petition is filed to declare the order passed by the 2nd respondent-Special Deputy Collector and Revenue Divisional Officer, Chevella Division, Ranga Reddy District, in proceedings No.C/1031/2007, dated 04.08.2007, setting aside the orders passed by the 3rd respondent - Mandal Revenue Officer, Shamshabad Mandal, dated 22.6.2005, as illegal and arbitrary.

The brief facts of the case, according to the petitioner, are that the petitioner and two others viz., P.Narsimhulu, and P.Ravinder are the owners and possessors of the land in Survey Nos.129 and 142 of Sulthanpally village, Shamshabad Mandal, Ranga Reddy District, admeasuring an extent of Acs.16.24 gts., and Acs. 8-26 gts., respectively, being the successors of late Venkata Shivalingam; after the demise of Venkata Shivalingam, they made an application for mutation and issue of pattadar passbooks; the then Mandal Revenue Officer issued pattadar passbooks in their favour; the 3rd respondent-Tahsildar, Shamshabad Mandal, addressed a letter to the Revenue Divisional Officer on 09.04.2007 stating that in the review meeting held on

15.03.2007, it was brought to their notice by the Sarpanch that the lands in Survey Nos.129 and 142 are Government lands, but the succession certificates were issued in favour of three persons; the Revenue Divisional Officer treated the said letter as an appeal and issued notice to the petitioner herein; the petitioner and his two brothers filed a written statement contending that the letter written by the Mandal Revenue Officer to the Revenue Divisional Officer cannot be treated as an appeal and it is not in accordance with Rule-22 A of the Rights in Land and Pattadar Passbooks Rules, 1989 and Section 5-B of the A.P. Rights in Land and Pattadar Passbooks Act, 1971; the matter was heard on 21.07.2007 and reserved for orders; written arguments were filed on 24.7.2007; before the orders were pronounced, one of the brothers of the petitioner, P. Ravinder passed away and a memo was filed, under Order 22 Rule 10 A of CPC, bringing to the notice of the Revenue Divisional Officer about the death of Ravinder; the said memo was received on 11.09.2007; no orders can be passed without bringing the legal representatives on record; as the matter was reserved and no orders were passed by the Revenue Divisional Officer, Writ Petition No.19862 of 2007 was filed seeking to declare the action of the Revenue

Divisional Officer and Mandal Revenue Officer in trying to dispossess him from the land, as illegal and arbitrary and the said writ petition was dismissed on 20.09.2007 at the admission stage, when the Assistant Government Pleader informed the Court that mutation proceedings dated 22.06.2005 of the Mandal Revenue Officer were cancelled by the Revenue Divisional Officer on 04.08.2007 and directed to restoration of the entries in respect of lands in Sy.No.129 and Sy.No.142 to the extent of Acs.16.24 guntas and Acs.8.26 guntas; challenging the orders of the Revenue Divisional Officer dated 04.08.2007, cancelling the mutation done by the Mandal Revenue Officer, the present writ petition is filed.

Counter affidavit has been filed by the Revenue Divisional Officer stating, *inter alia,* that during the inspection of the Government lands in Sulthanpally village, it is noticed by the Tahsildar, Shamshabad that the mutation proceedings were issued wrongly in respect of Government lands in Sy.Nos.129 and 142; in order to protect the Government land, a report was submitted to the Revenue Divisional Officer, Chevella Division; then the Revenue Divisional Officer, after providing an opportunity of hearing to the petitioner, conducted enquiry and passed the orders on

04.08.2007 cancelling the mutation orders of the Mandal Revenue Officer, Shamshabad, and also cancelling the pattadar passbooks and title deeds, as the land is a Government land and it is classified as "Biladakhala" and no Khata was assigned to any person; in order to provide house sites to the villagers, the land in Sy.No.142, admeasuring an extent of Acs.8-26 gts., of Sulthanpally village, was identified and patta certificates were also distributed on 19.09.2007; as the land is in possession of the Government, there is no question of dispossessing the petitioner; when the lands are recorded as "Biladhakala" in the revenue records and vested with the Government, it means that the lands do not belong to any individual and no assessment is levied over these lands; further, on verification of B-Memorandum, which is available in the faisal patties of Sulthanpally for the years 1976-77, 1977-78, 1987-88, 1988-89 and 1990-91, the land in Sy.No.129, admeasuring an extent of Acs., 8-26 gts., was recorded as "Biladhakala" and names of some persons were recorded as illegal occupants and the penalty was imposed for the illegal encroachments; a suit was filed by one Pulmamidi Prabhulingam and others before the Court of the Munsif Magistrate, Chevella in O.S.No.74 of 1985 for declaration of title and perpetual injunction and rectification of entries in the revenue records in respect of Survey Nos.68, 129 and 142 of Sulthanpally village in Shamshabad Mandal; the said suit was dismissed on 15.04.2005 and the petitioner herein is a relative of the plaintiff in O.S.No.74 of 1985, but the said fact of dismissal of the suit was suppressed by the petitioner before the Tahsildar and the Revenue Divisional Officer.

Pursuant to the directions of this Court, dated 09.11.2010, to clarify about the entries in the Khasra Pahanies and the classification of the land in the revenue records, the Revenue Divisional Officer filed an additional counter affidavit along with a detailed statement stating that all along from the year 1954-55 the classification of lands in Survey Nos.129 and 142 of Sultanpally village were mentioned as Biladakla/Boduvani Kunta Shikam/Sarkari in the revenue records and though for some years the names of some private persons were recorded in pattadar and possessory columns subsequently the same were rounded off and written as "Biladakla/Kunta/Sarkari, hence, the petitioner cannot claim any right over the said lands.

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue.

It is submitted by the learned counsel for the petitioner that the letter of the Mandal Revenue Officer cannot be treated as an appeal and even though the fact of death of one of the brothers is brought to his notice, the Revenue Divisional Officer passed the impugned order.

Even though the petitioner stated in the affidavit filed along with the writ petition that the passbooks were issued to him, they were not filed along with the writ petition. The learned counsel for the petitioner contends that the petitioner does not have the copy of the order in the suit and hence, he is not aware of the fact as to who filed the suit.

It is stated in the additional counter affidavit that the original file relating to application made by the petitioner claiming himself as legal representative of Venkata Siva Lingam is not available in their office and that the petitioner has to prove that he is the legal heir of late Venkata Siva Lingam. From the above recital, it is clear that the petitioner did not show anything before the Mandal Revenue Officer that he is the legal heir of said Venkata Siva Lingam. As seen from the order of the Mandal Revenue Officer, dated 22.6.2005, the petitioner and others submitted an application stating that the subject lands in Survey Nos. 129 and 142 are actually patta lands and that by oversight it has been recorded as “Bila Dakal” instead of patta lands and they requested for rectification of the entries recorded in the village records in their favour. The Mandal Revenue Officer stated in his order that they are actually patta lands and declared that the petitioner and two others are the successors of the deceased pattadars and ordered for correction of the subject land into that of patta land instead of ‘Bila Dakal’.

When the Mandal Revenue Officer submitted a report, it has come to the notice of the Deputy Collector and the Revenue Divisional Officer that the mutation proceedings were wrongly issued by the then Mandal Revenue Officer, Shamshabad Mandal in File No. A1/1663/2005, dated 22.6.2005. The subject lands in Sy.Nos.129 and 142 are classified as “Biladhakala” lands.

Admittedly, notices have been given to the petitioner and his brothers and they also filed their counter before the Revenue Divisional Officer.

The Revenue Divisional Officer, based on the report of the Mandal Revenue Officer, enquired into the matter after issuing notices to the petitioner and his brothers and they also filed their counter. Hence, the said report cannot be treated as an appeal under Section 5-B of the Act and the contention of the petitioner that the Mandal Revenue Officer did not follow the procedure prescribed for filing an appeal before the Revenue Divisional Officer is not tenable.

With regard to the second contention that one of the respondents i.e., petitioner's brother i.e., Mr. P.Ravinder died, while the proceedings are pending before the Revenue Divisional Officer and that order has been passed even before the legal representatives are brought on record, also is not correct, because the memo is filed only on 11.9.2007, much later to the pronouncement of the orders by the Revenue Divisional Officer on 4.8.2007. The acknowledgment of the Office of the Revenue Divisional Officer to the said Memo clearly shows the date as 11.9.2007.

It is curious to note that in the Mandal Revenue Officer's proceedings dated 22.6.2005, the subject is shown as 'succession amendment orders'. While granting succession, he ordered to change the nature of land from "Biladakala" to "patta lands".

As the said land was recorded as “Biladakala” (Government land) and as the Mandal Revenue Officer, while ordering succession, also ordered to change the nature of the land to “patta land” from “Biladakala” land, the order of the Mandal Revenue Officer is liable to be set aside and, accordingly, the Revenue Divisional Officer, has set aside the order of the Mandal Revenue Officer. For the reasons stated above, I see no reason to interfere with the impugned order of the Revenue Divisional Officer, dated 4.8.2007.

Accordingly, the writ petition is dismissed. However, liberty is given to the petitioner to approach the District Collector and ventilate his grievances, if any.

Miscellaneous petitions pending if any, shall stand closed. No order as to costs.

KONGARA VIJAYA LAKSHMI, J

Date:20/7/2018
Slk/Nsr

HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.20164 of 2007

Date: 20/7/2018

slk