HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.21898 of 2018

ORDER:

Heard Mr.S.Laxminarayana Reddy for petitioner, the Assistant Government Pleader for Revenue and Mr.M.S.R.Chandra Murthy representing Mr.G.Purushotham Reddy for 5th respondent.

The petitioner challenges the order of 2nd respondent made in exercise of power under Section 9 of A.P.Rights in Land and pattadar pass Books Act, 1971 (for short 'the Act'), as illegal and does not satisfy the jurisdiction conferred on 2nd respondent.

Having heard the learned counsel both on merits and also the procedural defects pointed out by the petitioner, this Court prefers to dispose of the writ petition with the consent of learned counsel appearing for parties by referring to the following circumstances.

The 5th respondent aggrieved by issuance of pattadar pass book in favour of petitioner filed revision under Section 9 of the Act. The 2nd respondent has registered the case as ROR Revision Petition No.40 of 2016. The revision was heard on 31.03.2018. The order impugned in the writ petition is passed on 05.04.2018.

Mr.Laxminarayana Reddy contends that the 2nd respondent firstly did not exercise the jurisdiction in the manner conferred on him by Section 9 of the Act and muchless in terms of the ratio laid down by this Court in *KURUVA HANUMANTHAMMA Vs. PRINCIPAL*

SECRETARY, REVENUE DEPARTMENT, HYDERABAD AND ANOTHER[1], wherein this Court held as follows:-

> "......
>
> In a case where the jurisdiction of revision against issue of PPP/TD is invoked, from the above discussion, it can be construed that the Collector firstly calls for the record of rights and examines the issue of PPP/TD on one or the other parameters viz., Regularity; Correctness; Legality or Propriety and if satisfied that the decision, order or proceeding should be modified etc., the revision disposed of keeping both the entries in record of rights and the extract viz. PPP/TD. The Collector has wide power and jurisdiction vis-à-vis the record of right under Section 9 of the Act against the order passed by Recording Authority, Mandal Revenue Officer or Revenue Divisional Officer, to examine the regularity, correctness, legality or propriety of any decision taken, order passed, or proceeding made in respect thereof and remit the matter to Mandal Revenue Officer for decision afresh.
>
> Therefore, as in the case on hand the issue of PPP/TD attracts one or the other grounds of revision referred to above for challenge and a revision under Section 9 against issue of PPP/TD is maintainable before the District Collector under Section 9 of the Act. The Collector in the revision filed before him is required to call for the record of right maintained by the Mandal Revenue Officer, examine the particulars contained in the PPP challenged in revision viz., whether conform to Section 6-A (2) or proviso thereto, conduct enquiry and pass one or the other orders specified in Section 9.
>
> Issuing PPP/TD without passing an order ought to be treated as a serious lapse on the part of the recording authority and appropriate steps are taken by District Collector in ensuring compliance with Section 6-A (2) and to avoid burden on the statutory authorities or on the Courts.
>
> The association of these two groups of words namely, "Regularity; Correctness; Legality; or Propriety" and "Modified, Annulled, Reversed or Remitted for Reconsideration" keeping with each other in the scheme of Section 9 of the Act, this Court construes that the comprehensive meaning attributable to each

---

[1] 2017 (6) ALT 449

one of the words is attracted while entertaining the jurisdiction or deciding the revision filed before District Collector. In addition to the reasons already given by construing as stated supra, this Court holds that against the mere issue of PPP/TD a revision under Section 9 is maintainable.

Having regard to the scope of Section 9 of the Act, a person, if aggrieved against an entry made or maintained in record of rights or continued to be maintained by recording authority can file revision under Section 9 of the Act. Likewise on the same analogy the aggrieved person can file revision against the issuance of PPP/TD. The Collector is obliged by the revisional jurisdiction he enjoys to examine all the aspects namely regularity, correctness, legality or propriety in the issue of PPP/TD and pass orders on the entries in record of rights and also on the legality or otherwise of PPP/TD against which revision is made before him. This Court is of the view that by adopting the above interpretation to Section 9 and Section 6-A of the Act before a litigant is compelled to work out the remedies under Section 8 of the Act, can avail the remedy within the framework of the Act by filing revision and obtain orders in this behalf. The point is answered by holding that in cases where the PPP/TD is issued either in breach of sub-section (2) of Section 6-A of the Act or otherwise particularly without an order or proceeding under Section 5 of the Act, an aggrieved party is not without remedy and legal wrong can be canvassed by fling revision under Section 9 of the Act. The remedy available under Section 8 of the Act is always independent and a party if advised, whether before filing the revision or after awaiting the outcome of revision, can work out the remedy of establishing title etc before the competent civil Court. The other remedies referred in Ratnamma case are to be understood as held in this order.

………"

He further contends that the 2nd respondent is empowered by Section 9 of the Act to call for the record and examine its propriety, legality etc., but ought not to pass orders basing on the report received from 4th respondent. The further objection in this behalf is that the report is received after the arguments are concluded. The last contention he raises against the order impugned in writ petition is that non-application or independent consideration of issue is evident from the consideration of facts in issue by the 2nd respondent. To illustrate, he contends that first three pages refer to contentions of revision petitioner-5th respondent, last two pages refer to counter-cum-written arguments filed by writ petitioner and the last paragraph alone refers to the reason which weighed with the 2nd respondent to set aside the patta issued in favour of petitioner. He prays for allowing the writ petition and leave the parties to work out remedies before the Civil Court.

Learned Assistant Government Pleader firstly justifies the order by contending that though it does not refer to detailed reasoning but the substance of reason can be culled out from the observation of 2nd respondent that pattadar pass book was issued in favour of petitioner without following the due procedure under ROR Act. After taking note of the dates, referred to above, and also the mechanical consideration of rival claims, he submits that the revision ought to be disposed of by examining the rival claims on merits and after examining the record of primary authority, which resulted in issuing pattadar pass book in favour of petitioner. He submits that the matter could be remitted to 2nd respondent for consideration and disposal in accordance with law.

The 5th respondent since is a beneficiary of order under challenge, learned counsel for 5th respondent consents to the course of action suggested by the Assistant Government Pleader.

Though an attempt is made to convince this Court to examine the merits independently, both by petitioner and 5th respondent, keeping in view the scope of judicial review under Article 226 of Constitution of India, the exercise is not undertaken by this Court, as revision is held to be an effective remedy under the Act. In the case on hand, since the exercise of authority by the revisional authority does not conform to the letter and spirit of Section 9, the order impugned in the writ petition is set aside and the matter is remitted to 2nd respondent for consideration and disposal in accordance with law.

The petitioner as well as 5th respondent, if so advised, can request the 2nd respondent to furnish copy of Tahsildar's report or peruse the record.

The 2nd respondent considers disposing of the revision, after remand, within three months from the date of receipt of a copy of this order.

The writ petition is accordingly ordered. No order as to costs.

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

S. V. BHATT, J

Dt: 28-06-2018
Prv