HONOURABLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.19055 OF 2007

ORDER:

This writ petition is filed questioning the order in D.Dis.No.3565/2003 (D8), dated 6.5.2006, passed by the 1st respondent-Joint Collector, confirming the orders of the 2nd respondent-Revenue Divisional Officer and the 3rd respondent-Tahsildar, as illegal, arbitrary and violative of the provisions of the A.P. Rights in Land and Pattadar Pass Books Act, 1971 (for short, "the Act").

The brief facts of the case, according to the petitioner, are that the 4th respondent filed a petition before the 2nd respondent-R.D.O seeking to issue pattadar pass books and title deeds for the land admeasuring Ac.2.03 cents, though she had interest only in the land admeasuring Ac.1.78 cents in Sy.Nos.225/1B and 225/2B of Andaluru Village; the 2nd respondent-R.D.O allowed the claim of the 4th respondent by an order dated 24.11.2001, directing the 3rd respondent-Tahsildar, to consider her case; then the 3rd respondent-Tahsildar passed an order dated 29.12.2001 allowing the claim of the 4th respondent; aggrieved by the same, the petitioner filed an appeal before the 2nd respondent-R.D.O; the 2nd respondent-R.D.O confirmed the same by his order dated 12.3.2003; aggrieved thereby, the petitioner preferred a revision before the 1st respondent-Joint Collector and the 1st respondent-Joint Collector also confirmed the order of the 2nd respondent-R.D.O vide his order dated 6.5.2006; challenging the same, the petitioner filed the present writ petition contending that the respondents do not have any review powers; no physical measurements were taken and that no notice whatsoever has been issued to the petitioner before conducting the survey of the subject lands.

Heard the learned counsel for the petitioner, learned counsel for the 4th respondent and the learned Assistant Government Pleader for Revenue.

As seen from the order dated 29.12.2001 of the 3rd respondent-Tahsildar, it is clear that the 4th respondent filed a petition before the 3rd respondent-Tahsildar stating that she purchased the extents of Ac.1.00 in R.S.No.225/1 and Ac.1.00 in R.S.No.225/2 of Andaluru Village vide a registered document dated 18.5.1988 and requested for issue of pattadar passbook. Petitioner herein filed a petition stating that she purchased the extent of Ac.1.78 cents of land in Andaluru Village vide a sale deed dated 23.9.2000 and pattadar passbook was also issued for the said land. She further stated that the Southern boundary of her land was mutated and applied for demarcation of the land as per the sale deed dated 23.9.2000. The Mandal Surveyor, Veeravasaram Mandal, who measured the extents of the above said lands has reported that Sy.No.225/1 was sub-divided as 225/1A, 2A and Sy.No.225/2 was sub-divided as 225/2A, 2B in Andaluru Village and found that the petitioner is in possession of the land admeasuring Ac.1.51 cents and the 4th respondent is in possession of land admeasuring Ac.2.03 cents. Accordingly, a report was submitted to the 2nd respondent-R.D.O, who in turn directed the 3rd respondent-Tahsildar, to issue pattadar pass books as per the entitlement of the individuals. Hence, pass books were issued to the 4th respondent for a total extent of Ac.2.03 cents and to the petitioner for a total extent of Ac.1.51 cents.

The main contention of the learned counsel for the petitioner is that no notice whatsoever has been issued by the 3rd respondent-Tahsildar to the petitioner before conducting the survey of the subject lands.

No counter affidavit has been filed by the official respondents. However, written instructions dated 7.8.2018, addressed by the 3rd respondent-Tahsildar to the Government Pleader for Revenue, are filed today. In the said written instructions, the issue with regard to issuance of the notice or otherwise is not mentioned. As the said instructions of the Tahsildar do not specifically say anything about the issuance of the notice to the petitioner before conducting the survey, the matter is required to be remanded back to the 3rd respondent-Tahsildar to enquire into the matter afresh and pass appropriate orders in accordance with law.

In view of the facts and circumstances of the case, the writ petition is allowed setting aside the order dated 6.5.2006, passed by the 1st respondent-Joint Collector and remanding the matter back to the 3rd respondent-Tahsildar, to enquire into the matter afresh and pass appropriate orders in accordance with law after giving reasonable opportunity of hearing to the parties concerned. No order as to costs.

Miscellaneous petitions pending if any, in the writ petition shall stand closed.

KONGARA VIJAYA LAKSHMI, J

Dated:08/08/2018
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HONOURABLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

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WRIT PETITION No.19055 OF 2007

Date:08/08/2018

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