

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.15652 OF 2017

ORDER:

The 1st petitioner and the 2nd petitioner are the daughters of one Late Narayana Reddy. They are the owners and possessors of land to an extent of Acres 4.73 cents, situated in various survey numbers of Burlapalle Village of P.T.M.Mandal, Chittoor District. The said properties are their ancestral properties. During the lifetime of Narayana Reddy, he along with his mother Smt.Lakshamma, executed a Gift Settlement Deed in favour of the petitioners on 28.12.1999 in respect of his entire share, keeping the mother of the petitioners as natural guardian. The grandmother of the petitioners also executed a registered Gift Deed dated 30.06.2010 in favour of the petitioners in respect of her share. Thus, the title of the petitioners is established. On their application, Pattadar Pass Books and Title Deeds were issued in their favour. When there was an interference from one Bikka Narayanaswamy and Bikka Madhava Reddy, the petitioners filed O.S.No.64 of 2013 before the learned Junior Civil Judge, Thamballapalle, for perpetual injunction in respect of the above properties. They sought a temporary injunction in I.A.No.198 of 2013 and the same was granted on 19.02.2014. When the defendants in the suit tried to interfere, the petitioners filed I.A.No.102 of 2014 seeking police aid and the same was also granted. However, challenging the issuance of Pattadar Pass Books and Title

Deeds in favour of the petitioners, said Bikka Narayanaswamy filed an appeal before the 4th respondent and the 4th respondent dismissed the appeal by order dated 20.11.2015. Challenging the same, he preferred a revision before the Joint Collector and the Joint Collector also dismissed the revision by order dated 03.04.2017. The order of the Joint Collector was not challenged by the said Bikka Narayanaswamy and it has become final. When the petitioners approached the 5th respondent with a request to implement the orders of the respondents 3 and 4, he passed an endorsement on 07.04.2017, directing the petitioners to approach the competent court for redressal of their grievance. Challenging the same, the present writ petition is filed.

2. As per the above facts, *prima facie*, title of the petitioners is established. Further, the petitioners are in possession and Pattadar Pass Books and Title Deeds were issued in favour of the petitioners by the Revenue Authorities. When the same was challenged by the Narayanaswamy, the Sub-Collector passed an order clearly holding as follows:

“1. The appeal schedule appears to be ancestral of the respondents and the locus standi, genuinity, validity of the will has to be decided by the civil courts.

2. The summary enquiry report of the Tahsildar speaks about the present possession and enjoyment of the respondents 1 and 2 over the appeal schedule property.

3. The respondents have approached the competent civil court through O.S.No.64 of 2013 in Junior Civil

Judge Court, Thamballapalle and have got interim orders in the their favour of on the appeal schedule property in I.A.No.198 of 2013 over the same court granted police protection in I.A.No.102 of 2014.

4. The appellant should have approached the civil court and waited till the judgment is delivered in the civil court rather than approaching the revenue court without any conclusive rights or judgment on the appeal schedule property.

Hence this court has decided to dismiss the appeal and vacate the stay order granted on the operation of PPB and TD issued to respondents 1 and 2.”

3. The observations of the Sub-Collector also substantiate the case of the petitioners. The said order was confirmed by the Joint Collector. A joint reading of the orders of the Sub-Collector and Joint Collector show that the appellant before them, the said Bikka Narayanaswamy, was directed to approach a civil court for establishing his right. But, it appears that he has not approached the civil court and there is no order in his favour as on today. In such circumstances, the 5th respondent should have implemented the entries and made in the Pattadar Pass Books and Title Deeds by taking into consideration the observations made by the Sub-Collector, as there are no observations or findings recorded against the petitioners as on today, either by the Sub-Collector or by the Joint-Collector.

4. In view of the above facts and circumstances of the case, the impugned endorsement dated 07.04.2017 is set

aside and the 5th respondent is directed to comply with the request of the petitioners for releasing the online key of the Pattadar Pass books in respect of the above property, as expeditiously as possible, not later than two weeks from the date of receipt of a copy of this order.

5. Accordingly and with the above direction, this writ petition is allowed. Miscellaneous petitions pending consideration, if any, in the Writ Petition shall stand closed in consequence. No order as to costs.

08.02.2018
SS

A.RAMALINGESWARA RAO, J

