

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.NO.23273 OF 2018

O R D E R

The unofficial respondent No.5 herein filed representation before the 4th respondent – Tahsildar for grant of permission for construction of house and for drilling of bore well in the subject land, and the writ petitioner filed her objections. As the unofficial respondent No.5 relied on a registered sale deed dated 27.05.2015 and the objector / writ petitioner, relied on an unregistered sale deed, purported to have been executed by one of the pattadars of the subject land by name P.Parthasarathi Naidu on 24.02.2000, 4th respondent, found that the dispute is of civil in nature and vide endorsement in LDis/A/54/2018 dated 13.04.2018, advised the parties to approach the civil court for resolving the issue. Aggrieved by the same, the unofficial respondent No.5 filed revision before the 3rd respondent – Joint Collector. By the impugned order in ROC-Rev-ESCE/341/2018-JA(E7)/CTRCO dated 08.05.2018, the 3rd respondent, set aside the endorsement of the 4th respondent dated 13.04.2018. Aggrieved by the same, the objector filed the present writ petition.

The operative portion of the impugned order of the 3rd respondent is as under:

“In view of the above, it is clear that the document possessed by the petitioner viz., Venkaiah is found to be genuine one and the document produced by the objector viz., Janakamma is not a valid document since she failed to get title for the last 18 years for the unregistered document possessed by her.

Therefore, the endorsement issued by the Tahsildar, Tirupati urban in LDis/A/54/2018 dated 13.04.2018 is hereby set aside and the petitioner is at liberty to approach the authorities concerned for permission if any required for construction of house etc.”

Si Staram Chaparla, learned counsel appearing for the petitioner contended that as both the parties claimed title over the subject land, the 4th respondent – Tahsildar, rightly held that there is civil dispute and required the parties to approach the civil court for resolving the dispute. He submits that the 3rd respondent in the revision filed by unofficial respondent No.5, has delved into the disputed questions of fact and without there being any sufficient material evidence, gave a finding with regard to title, which is not within his realm. He stated that the settled principle of law is that the revenue authorities cannot decide title and the competent authority is the civil court. Therefore, he submits that the conclusions arrived by the 3rd respondent, which has the effect of deciding the title, have to be set aside. He further submits that before passing the impugned order, 3rd respondent has not issued any notice, giving opportunity to the petitioner, and this amounts to violation of principles of natural justice. On these grounds, he sought to set aside the impugned order and to confirm the order passed by 4th respondent – Tahsildar.

Si P.Venugopal, learned Senior Counsel appearing for the 5th respondent, fairly conceded that from a perusal of the impugned order, there is no indication whether the petitioner was served with any notice giving her opportunity. However, he submits that when the permission is sought under a statute, the competent authority has to *prima facie* satisfy whether to grant permission. In the present case, the 5th respondent has relied on a registered sale deed, and whereas, the petitioner, who is the objector, relied on an unregistered sale deed. When reliance is placed on an unregistered sale deed, as against a registered sale deed, in respect of the subject property, the competent authority, in order to satisfy himself with regard to claims of respective parties, has to consider

the same and come a just conclusion, and the same cannot be equated to the process of deciding title. He submits that matter may be remanded and the 3rd respondent may be directed to reconsider the issue and pass appropriate orders by complying with the principles of natural justice.

Heard the learned Assistant Government Pleader for Revenue for official respondents 1 to 4.

A reading of the impugned order goes to show that before passing the said order, no notice was issued to the petitioner. When the appellate authority is setting aside the order passed by the primary authority, principle of natural justice requires issuance of notice and opportunity of hearing to the party, who succeeded before the primary authority. The 3rd respondent, while passing the impugned order, failed to comply with the principles of natural justice. Therefore, only on the ground of violation of principles of natural justice, the impugned order is set aside, and the matter is remitted to the 3rd respondent to pass orders afresh in accordance with law, within a period of four weeks from the date of receipt of a copy of this order, after issuing notice and opportunity of hearing to the petitioner and the 5th respondent.

It is open to the petitioner and the 5th respondent to file relevant documents in support of their claim.

Writ petition is accordingly allowed to the extent indicated above.

Interlocutory applications pending, if any, shall stand closed. No costs.

A. RAJASHEKER REDDY, J

DATE: 05—12—2018
AVS