

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.23458 of 2018

ORDER:

It is the case of the petitioner that the land in an extent of Acs.5.00 cents in Sy.No.48/2 of Orugpalli village, Sydapuram Mandal, S.P.S.R Nellore District, (for short 'the subject land') was assigned to the petitioner in the year 1970 and he brought the same into cultivation adhering to the terms and conditions of the assignment. Since then, he has been in possession and enjoyment of the subject land and his name is also mutated in revenue records; that pattadar pass books and title deeds were also issued in his favour. While so, having noticed that the name of one Syed Shin Manne Sab is shown as pattadar against the subject land in 'online revenue records', as such, he approached the 5th respondent and submitted a representation for correction of entries in revenue records by deleting the name of said Shaik Shin Manne Sab. As there is no response from the 5th respondent, he approached the 3rd respondent and made a representation. The 3rd respondent instead of considering the same, called for the report from the 4th respondent. Thereafter, the 4th respondent submitted report with regard to an extent of land i.e., Acs.13.99 cents in Sy.Nos.48/1, 48/2, 48/3 and 48/4 stating that one Jeelani and his daughter-in-law sold the land assigned to them in Sy.No.48/1 in favour of one Shaik Masthan Sahab, S/o.Moula Saheb and Chinthpalli Venkateswarlu, S/o.Balaramaiah and they are enjoying the land unauthorizeldy. That basing on the report of the 4th respondent, the 3rd respondent initiated proceedings under the provisions of the

Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 and also proceeded under the provisions of the A.P.Assigned Lands (Prohibition of Transfers) Act, 1977 and issued proceedings dated 15.02.2017 in D.Dis.No.(E10)/2913/2016 by concluding that the respondents 6 and 7 are the purchasers of the subject land and ordered to conduct enquiry as to who are the land less poor persons amongst petitioner and respondents 6 and 7 and to restore the same to the original assignees family or to assign any other landless poor. Aggrieved by the same, petitioner filed WP No.28400 of 2017 to declare the aforesaid proceedings of the 3rd respondent as illegal and arbitrary, wherein this Court by order dated 04.09.2017, set aside the orders of the 3rd respondent dated 15.02.2017 remitting the matter to the 3rd respondent -Joint Collector directing him to initiate appropriate proceedings under the Act of 1977. The 3rd respondent instead of examining the grievance of the petitioner in terms of Section 9 of the Act of 1971, passed impugned orders dated 09.03.2018 directing the 5th respondent to conduct enquiry under the provisions of the Act of 1977. Aggrieved by the same, present writ petition is filed.

2. Though counter affidavit is filed by the 5th respondent denying the averments in the affidavit filed in support of the Writ Petition but admitted assignment of subject land in favour of the petitioner.

3. Counter affidavit is filed by the respondents 6 and 7 denying the averments in the affidavit filed in support of the Writ Petition stating that they are no way concerned with the subject land.

4. Heard learned counsel for the petitioner and learned Assistant Government Pleader for respondents 1 to 5 and Sri P.Sree Ramulu Naidu, learned counsel for the respondents 6 and 7.

5. Learned counsel for the petitioner submits that the only grievance of the petitioner is that third party's name is included in online revenue records in the place of petitioner in respect of subject land. He submits that when petitioner was issued with pattadar pass books and title deeds and his name is also included in the revenue records, inclusion of third party's name in online revenue records is illegal.

6. Learned counsel for the respondents 6 and 7 reiterated the averments in the counter affidavit stating that some third parties are in possession of the subject land and that without adding them as parties, this writ petition is not maintainable.

7. In the counter affidavit of the 5th respondent, it is stated as follows:

“7. I submit that as per the orders of the Joint Collector vide D.Dis (E10)/2913/2016, dated 15.02.2017 of A.P. Assigned Land Rules, 2007, notices have been issued in form I & II vide this office Rc.28/2017 dated 29.08.2017 to submit explanation within 15 days. As matter stood thus, the present Writ Petitioner has filed WP No.28400/2017 before the Hon'ble High Court. The Hon'ble High Court while disposed of the WP on dt.01.09.2017 directed the 3rd respondent to conduct fresh enquiry. Accordingly the Joint Collector conducted enquiry and directed the Tahsildar to take decision under provision of section 4(1) B(ii)/4(i) B(iii) of AP Assigned POT Act 1977 vide case No.D.disF3/1330/2017, dated 09.03.2018. As per the orders of the Joint Collector, notices in form-I & II under Rule 3 of the AP Assigned (POT) Rules have been issued to the concerned with a request to offer their explanations, also enquired into the matter. Petitioner Sri Sk.Masthan Saheb, s/o.Hussain Saheb is residing in the village by running Tea bunk and not having any landed property except this land and eligible for restoration under Section 4(1) B(ii)/4(i) B(iii) of AP Assigned POT Act 1977. Therefore an extent of Acs.5.00 cents in Sy.No.48/2 of Orugupalli village, Sydapuram Mandal has been handed over to the petitioner on 18.07.2018. A statement also obtained from the writ petitioner to that effect, a photo also taken at the time of restoration of the land to the original assignee. A copy of the statement obtained from the writ petitioner, Web land adangal photo is here with submitted for kind perusal.”

In 7th paragraph of the counter affidavit filed by the 5th respondent, in pursuant to impugned proceedings dated 09.03.2018, the possession of the subject land has been handed over to the writ petitioner on 18.07.2018 and a statement, along with web land adangal photo is filed along with a counter, which goes to show that the grievance of the writ petitioner stood redressed. In view of the same, nothing survives for adjudication in this Writ Petition. Moreover, the averments in the counter filed by the respondents 6 and 7 also goes to show that they are no way concerned with the subject land and that some third parties are in possession of the subject land and also that they cannot agitate on behalf of third parties.

In view of the averments in the 7th paragraph of the counter affidavit of the 5th respondent, this Writ Petition is disposed of directing the 4th respondent to delete the name of Shaik Shin Manne Sab whose name is shown as pattadar in respect of subject land. There shall be no order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

A.RAJASHEKER REDDY, J

31-12-2018
kvs

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.23458 of 2018



Date: 31.12.2018

kvs