HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.26148 of 2016

ORDER:

1) Assailing the order of the Joint Collector, Karimnagar in R.P.No.D1/3206/2013, dated 26.04.2016, confirming the orders of the Revenue Divisional Officer in proceedings No.D/448/2013, dated 30.04.2013, the present writ petition came to be filed.

2) The petitioner herein and two others claim to have purchased the land admeasuring Ac.2.05 gts., in Sy.No.771 from its original owner, pattadar and possessor by name Ramaiah, in the year 1966, by way of simple sale deed. Thereafter, mutation was affected and their names were also incorporated in the revenue records from the year 1967 till 1995-1996. Without assigning any reasons, the name of the petitioner came to be deleted in the subsequent pahanies. Upon her request, the fourth respondent is said to have conducted an enquiry and passed an order dated 26.06.2012 holding that the petitioner is in possession of the property. Basing on the said order, the name of the petitioner was included in pahani. Later on, the third respondent is said to have passed an order dated 30.04.2013, setting aside the memo issued by the fourth respondent, without any notice to the petitioner and without there being any appeal filed by the

fourth respondent and without conducting any enquiry. In view of the above, the petitioner preferred a revision before the second respondent under Section 9 of the Andhra Pradesh Rights in Land and Pattadar Passbooks Act, 1971 (for short "the Act"). The said revision was also dismissed confirming the orders of the Revenue Divisional Officer (third respondent). Challenging the same, the present writ petition came to be filed.

3) By an order dated 19.08.2016, while admitting the writ petition, this Court granted *status quo* regarding entries in the revenue records. Subsequently, by an order dated 02.07.2018 this Court allowed the third parties to implead themselves as respondents 6 and 7.

4) A counter came to be filed by respondents 6 and 7 denying the averments made in the affidavit. They claimed to have purchased the land from the fifth respondent by way of registered sale deed dated 09.10.2015. It is said that there is absolutely no material to show that the petitioner is having right or title over the property or she is in possession of the property. It is further stated that the memo of the Tahsildar was issued in the year 2012, which is made the basis to file the writ petition, cannot be looked into for morethan one reason. Firstly, the Tahsildar would not get jurisdiction to entertain an application in respect of the entries made

beyond one year and that he himself sent a report to the Revenue Divisional officer stating that he has committed a mistake in entering the name of the petitioner in the revenue record. Hence, pleads that there are no merits in the writ petition and the same is liable to be dismissed.

5) Learned counsel for the petitioner mainly submits that the order passed by the Tahsildar dated 26.06.2012 cannot be revised or reviewed by the Tahsildar on his own without there being an appeal. Further, the third respondent reversed the entries basing on the report submitted by the fourth respondent, stating that he has committed a mistake in holding that the petitioner is in possession of the property.

6) The entire case revolves around the memo, dated 26.06.2012, issued by the Tahsildar. As per the said memo Form No.5 notice was issued, for submitting objections, with regard to continuation of the name of one Kukatla Yellamma as pattadar in respect of land admeasuring Ac.0.28 gts., in Sy.No.771/A, in place of one Kukatla Rajamallu. Though the name of Rajamallu is found since 1977-78; as no objections were received and in view of the alleged notarised affidavit submitted by Rajamallu stating that he has no objection for entering the name of Yellamma in the revenue records, the memo dated 26.06.2012, came to be issued.

7) Pursuant to the letter written by the Tahsildar seeking cancellation of his earlier order in recording the name of the petitioner, the Revenue Divsiional Officer, basing on the report. dated 12.01.2013, and the application submitted by Kukatla Rajamallu, found that the Tahsildar, without verifying the office records issued memo dated 26.06.2012, erroneously and accordingly cancelled the same. The Joint Collector while rejecting the request of the writ petitioner found that from the year 1997-1998 to 2011.2012 ie., since last 15 years, the name of Kukatla Rajamallu and his son was shown as pattadar and possessor of the said land and that they have been enjoying the same without any obstruction. Pattadar pass book and title deed came to be issued to them vide patta No.631. The Joint Collector further held that O.S.No.227 of 2008 and O.S.No.253 of 2011 filed by Kukatla Mallesham and Kukatla Shekar in respect of the same matter, namely with regard to issuance of pattadar pass book was dismissed. It is held that about 15 years thereafter the writ petitioner wanted to take possession of the same because of the increase in market value by getting the entries changed. Having regard to the above, the Joint Collector confirmed the order passed by the Revenue Divisional Officer.

8) The grievance of the petitioner appears to be that no notice was given to her by the Revenue Divisional Officer

while passing the order, which was upheld by the Joint Collector. It is to be noted that the memo dated 26.06.2012 does not create any right in favour of the writ petitioner in respect of the said land. Basing on an affidavit alleged to have been given by Rajamallu, directions were given for incorporating the name of the petitioner in the revenue records. But it appears that the names were not yet changed since either copy of mutation or a copy of the pahani containing the name of the petitioner are not filed before this Court. Immediately thereafter, the Tahsildar is said to have sent his report to the Revenue Divisional Officer and also the application made by the fifth respondent seeking cancellation, in view of the error committed by the Tahsildar in making the entries. The order of the Revenue Divisional Officer, which is said to have been passed without hearing the writ petitioner, was challenged before the Joint Collector. After hearing the matter at length and also relying upon the documents filed by the petitioner in the revision, the impugned order came to be passed.

9) A perusal of the material on record would show that the Tahsildar has no right to issue memo dated 26.06.2012 for more than one reason. Firstly, though the petitioner alleges that mutation was affected in her name and the other two owners in the revenue records as pattadars and possessors in

the pahanies from the year 1967 to 1995-1996, no copy of the mutation proceedings nor the pahanies came to be filed before the Court or before any authority. Though the petitioner claims that her name was shown in the pahanies from the year 1967 to 1995-1996, but the pahani of only one year ie 1995.1996 came to be filed. Thereafter she claims to have got her name incorporated in the year 2012 after getting the name of Rajamallu deleted from the record. The Tahsildar is not competent for correction of entries in the revenue records beyond a period of one year and it is only a Collector, who is competent to do so, in view of Section 3 (3) of the R.O.R.Act and rules made thereunder.

10) In G.Prabhakar v. State of Telangana and others[1] this Court held as under:

> "4. A perusal of Sections 3 to 5 and 9 of the Act leave no manner of doubt that the Tahsildar is not vested with any powers to make corrections either suo motu or on an application except at the time of making entries for the first time in terms of the notification issued under Sections 3(1), 3(2) of the Act. Any corrections in relation to the entries could be made in the given circumstances satisfying Section 3(3) of the Act within one year. If the case requiring corrections of the revenue records beyond the time limit of one year, necessary orders can be passed only by the District Collector in exercise of the

[1] (2015) 4 ALD 427

revisional powers and the Tahsildar is not vested with any such power."

11) Apart from that when a right is acquired in the land under Section 4 of the Act, the person, who acquired the right, shall make an application within 90 days from the date of such acquisition, whereupon the Tahsildar gets authority under Section 5 of the Act to amend and update the record of rights. In the instant case, 15 years later, an application came to be filed for mutation, which ousts the jurisdiction of the Tahsildar in exercising his power for mutation of the names. It is also to be noted here that though the petitioner claims that her name was mutated subsequent to the memo dated 26.06.2012, no documentary proof has been filed evidencing the same. Even assuming that such an entry is made, the same would be illegal since the Tahsildar has no such power to do so.

12) In fact a perusal of the order show that basing on the representation made by Rajamallu before the Revenue Divisional Officer, a report was called for from the Tahsildar, who admitted his mistake in making a change in the entries. In view of the above, the Revenue Divisional Officer ordered for restoration of the earlier entry. Since the Joint Collector passed an order after hearing the writ petitioner and after giving an opportunity to place all the material, the allegation

that no opportunity was given by the Revenue Divisional Officer may not carry much weight, as the Joint Collector provided full opportunity to the petitioner by allowing her to produce all the material along with her affidavit and then after hearing her, passed the impugned order. Therefore, the grievance that no opportunity was given may not come in the way to sustain the order of the Joint Collector.

13) For the aforesaid reasons, I see no merits in the writ petition and the same is accordingly, dismissed.

14) There shall be no order as to costs. As a sequel to disposal of the writ petition, WP.M.Ps if any pending shall stand closed.

C. PRAVEEN KUMAR, J

12.10.2018
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