THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.25570 OF 2016

Dated:22.01.2018

Between:

Putti Indira, W/o. Rajesh,
Age about 38 years, Occ: House
Wife, R/o.Krosuru Road,
Amaravathi Village, Amaravathi
Mandal, Guntur District .. Petitioner

And

The State of Andhra Pradesh, rep.,
by its Principal Secretary, Revenue
Department, Secretariat, Hyderabad
and others .. Respondents

The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.25570 OF 2016

ORDER:

Petitioner challenges the order dated 12.05.2016 of the Revenue Divisional Officer setting aside the pattadar passbook and title deeds granted in her favour. This Court by order dated 10.08.2016 granted interim suspension of the said order. Aggrieved by the same, the 4th respondent filed W.V.M.P.No.3622 of 2016.

2. When the vacate petition is taken up for consideration, learned counsel representing the petitioner and the 4th respondent respectively requested to dispose of the Writ Petition finally. In view of said request writ petition is finally disposed of by this order.

3. To the extent relevant, the facts are as under:

Petitioner claims to be the absolute owner and possessor of the agricultural land admeasuring Acs.6.86 cents in total, i.e., Acs.3.51 cents in Survey No.102-2A and Acs.3.35 cents in Survey No.102-2C of Dharanikota Village, Amaravathi Mandal, Guntur District. According to petitioner, the said land was acquired by way of registered gift deed dated 21.06.2004 executed in her favour by her paternal uncle. According to her, her name was mutated in the revenue records and accordingly pattadar passbook and title deed were issued. While so, on a petition filed by 4th respondent, contending that he is having a larger extent of land i.e., Acs.14.04 cents in the above two survey numbers and after disposing of Acs.10.56 cents of land, Acs.3.84 cents of land is remaining in his possession and enjoyment, whereas illegally entire extent is reflected in the passbook issued to petitioner, the Revenue Divisional Officer treated the same as appeal, considered the respective submissions and passed the order against which this Writ Petition is filed.

4. Learned counsel for the petitioner submits that the petitioner is in possession and enjoyment of the land in terms of the gift granted in her favour and pattadar passbook and title deeds were issued in 2004. He further submits that as held by the Division Bench of this Court in ***Ratnamma v. Revenue Divisional Officer, Dharmavaram, Anantapur District***[1] against issuance of pattadar passbook and title deeds, no appeal is maintainable. Therefore, the order of the Revenue Divisional Officer against which this Writ Petition is filed is liable to be set aside on that ground alone.

5. Learned counsel for the 4th respondent submits that the revenue records were not altered by following the due procedure. Unless revenue records are mutated in favour of petitioner, pattadar passbook and title deeds cannot be issued. As revenue records are not altered by following due process, the 4th respondent is remediless and therefore the order of the Revenue Divisional Officer is validly made. He further submits that after obtaining the report from the Tahsildar, which report substantiates the claim of the 4th respondent that larger extent of land actually belongs to the 4th respondent is reflected in the pattadar passbook issued in favour of petitioner, the 4th respondent requested for

[1] 2015 (6) ALD 609 (DB)

correction of the revenue records and to reflect the correct extent in the pattadar passbook and title deed. He further submits that in fact the 4th respondent applied to the Tahsildar for issuance of pattadar passbook and title deed as regards the land belonging to him. As the Tahsildar was not responding to his request, he complained to the District Collector, who, in turn, directed the Revenue Divisional Officer to examine the matter. The Revenue Divisional Officer treated the said complaint as an appeal and passed orders, whereas the 4th respondent never preferred appeal. In fact the Revenue Divisional Officer directed the Tahsildar to look into the grievance of the 4th respondent and to take necessary action, whereas the Tahsildar submitted his report to the Revenue Divisional Officer, who, in turn, passed the order impugned in the Writ Petition. The operative portion of the order of the Revenue Divisional Officer treats it as an appeal but in fact the Revenue Divisional Officer has looked into the matter independently and having found that wrong decision was made by the Tahsildar, appropriate directions were issued.

6. Having regard to the above submissions, the only issue that falls for consideration is whether the appeal is maintainable before Revenue Divisional Officer against granting of pattadar pass book and title deed by Mandal Revenue Officer?

7. A bare reading of the order itself would show that the Revenue Divisional Officer exercised the appellate jurisdiction and examined the validity of pattadar passbook, and title deed issued by Mandal Revenue Officer. The Mandal Revenue Officer is the original authority in the hierarchy in the revenue department and

is conferred with the power to issue pattadar passbook and title deeds. The Revenue Divisional Officer is not conferred with original jurisdiction for issuance of pattadar passbook and title deed. Thus, the decision made by Revenue Divisional Officer against which this Writ Petition is filed is nothing but made in exercise of appellate jurisdiction.

8. With reference to appellate jurisdiction, more particularly against issuance of pattadar passbook and title deeds, under the Andhra Pradesh Rights in Land and Pattadar Passbooks Act, 1971 (for short, 'the Act'), the Division Bench of this Court in ***Ratnamma*** considered elaborately and held that as per the scheme of the Act, no appeal is provided against the decision of the Tahsildar in issuing pattadar passbook and title deeds. It is useful to extract the observations made by the Division Bench of this Court at paragraph No.21. They read as under:

> "21. From a bare reading of Section 5(5) of the Act, it can be held that against every order of recording authority either making an amendment in the Record of Rights or refusing to make such an amendment, an appeal to the RDO, is provided within the time stipulated in the Section. Under the Act, making an amendment in the Record of Rights or refusing to make amendment in Record of Rights is a crucial stage and a substantive decision rendered by the recording authority. Therefore, right of appeal is provided against such decisions. Likewise, from the reading of Section 5(5) of the Act, it cannot be construed that Section 5(5) provides remedy of appeal against orders under Section 6-A of the Act. Issuance of PPB/TD or making entries therein is always a step consequential to the Record of Rights prepared. Therefore the plain reading of Section 5(5) makes it clear that appeal against order under Section 6-A is not maintainable."

9. In view of the decision of the Division Bench in ***Ratnamma***, the order against which this Writ Petition is filed is not sustainable and accordingly the same is set aside. However, as the 4th respondent has a grievance with reference to non-issuance of pattadar passbook and title deeds to him and as he was ventilating his grievance, notwithstanding the order in the Writ Petition setting aside the order of the Revenue Divisional Officer, dated 12.05.2015, it is open to the 4th respondent to pursue his remedies as available in law including the representation made by him.

10. The Writ Petition is accordingly allowed. There shall be no order as to costs.

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

P. NAVEEN RAO, J

Date:22.01.2018
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