

HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE S.V.BHATT

WRIT APPEAL No.976 OF 2018

JUDGMENT: *(Per the Hon'ble Sri Justice SV.Bhatt)*

Heard Mr.Venkaterswarlu Chakkilam for appellants, Mr.M.Jagannatha Sarma for respondents 1 and 2, the learned Government Pleader (Revenue) for respondents 3 to 5 and Mr.Bhavana Rao for respondents 6 to 25.

Respondent Nos. 4, 7 to 9, 11 to 14, 34 and 35 in W.P. No.18147 of 2006 are the appellants.

The writ appeal challenges the order dated 23.02.2018 in W.P.No.18147 of 2006. Respondents 1 and 2 herein filed W.P.No.18147 of 2006 and challenged proceeding D.Dis.No.1765/2006 dated 25.06.2006, wherein the 4th respondent directed 5th respondent to issue pattadar pass book and title deed in favour of 1st appellant, as illegal, arbitrary and violative of principles of natural justice and unconstitutional.

The subject matter of the proceedings dated 25.06.2006 is Acs.4-86 cents in Survey No.170 (old)/ 812 (new) of Dasannapeta, Vizianagaram District.

The issue arises under the A.P. Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act'). The order challenged in the W.P. was made under Section 9 of the Act.

The learned Single Judge in the order under appeal has referred to all the circumstances leading to the filing of revision by

the 1st appellant before the 4th respondent and the writ petition as well. We prefer to advert a few of these details for the purpose of disposing of the appeal. The 1st appellant applied to 4th respondent for issue of pattadar pass book and title deed for the subject matter. The 4th respondent, on 27.04.2006 called upon the 5th respondent to furnish status report on the application filed by the appellant. The 5th respondent through communication Rc.121/2006 dated 04.06.2006 forwarded the report to 4th respondent. The 4th respondent by referring to the references adverted to above, passed the following order:

“The Mandal Revenue Officer, Vizianagaram has further reported that Smt.Pillala Yellamma after death of her father misrepresented the facts and mis inter presented the judgment if Hon'ble High Court before the then Mandal Revenue Officer, Vizianagaram and fraudulently obtained PPB and TD to the land in T.S.No.812 of Maharajupeta South Ward of Vizianagaram MC Bit for which her father has no right over the title of the land.

Finally the Mandal Revenue Officer, Vizianagaram has requested that the pattadar pass book and title deed obtained by Smt.Pillala Yellamma W/o.Babaji by misrepresentation of the facts need to be cancelled and requested to issue necessary orders in the matter to take further action.

Basing on the report of the Mandal Revenue Officer, Vizianagaram the pattdar pass book and title deed fraudulently obtained by Smt.Pillala Yellamma W/o.Babaji is hereby cancelled. The Mandal Revenue Officer, Vizianagaram is directed to issue pattadar pass book and title deed in favour of the petitioner after thoroughly verifying the documents produced by the petitioner and as per the rules under A.P. Records of Rights in Land and Pattadar Pass Books Act, 1971 (Act 26 of 1971).”

Hence the writ petition at the instance of respondents 1 and 2.

The first and foremost objection of respondents 1 and 2 against order dated 25.06.2006 is that the impugned proceeding dated 25.06.2006 is violative of principles of natural justice and contrary to the statutory mandate. The 4th respondent through the impugned proceedings cancelled the pattadar pass book/title deed issued in favour of respondents 1 and 2 for the subject matter and directed issuance of pattadar passbook/title deed to appellants. The pattdar passbook/title deed was initially issued in favour of respondents 1 and 2 long ago and it is not under challenge by filing appeal, directly revision was filed by 1st appellant. The further objection against the order dated 25.06.2006 is that having regard to the nature of assertion of respondents 1 and 2 namely, that they continued to be in possession of subject matter in their own right and keeping in view the earlier adjudication the authorities under the Act would not have entertained the revision or passed the order impugned in the W.P.

The reply of appellants is that the pattadar pass book/title deed in favour of respondents 1 and 2 is contrary to the adjudication of the competent Court, assuming without admitting that the opportunity was not afforded by 5th respondent before passing the order dated 25.06.2006, the case ought to have remitted to 4th respondent for disposal afresh. Instead, the order under appeal, after setting aside the order dated 25.06.2006 leaves the parties to work out the remedies in accordance with law both on title and possession of subject land.

In the above background, we have perused the order under appeal. The learned Single Judge had taken note that there are disputes on title and possession over subject matter between the parties. The order under appeal refrains from going into these disputed questions of fact much less the merits of the case pleaded by parties on title and possession. It is concluded that the proceedings dated 25.06.2006 are violative of principles of natural justice and after the change of physical features of land, the jurisdiction under the Act has been exercised. The issue is required to be resolved by the competent civil Court. Therefore, the issue is left open for consideration by the civil Court and thereafter making entries under Section 8(2) of the Act could be considered by the authorities.

The appellants could not point out an infirmity or illegality in the order under appeal. Mr. Venkateshwarlu Chakkilam since made elaborate submissions on the order under appeal, if we are convinced that the documents relied on by both the parties are considered and record a finding, still leave the parties to work out their remedies before the competent civil Court, then one party or the other would be prejudicially affected by such finding. For the above reasons, the grounds urged that there is no disputed question of fact or that the case ought to have been remitted to 4th respondent for fresh consideration are untenable and rejected. We are in complete agreement with the order under appeal.

The appeal fails and is accordingly dismissed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

S.V.BHATT, J

Date:14.09.2018
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