

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

WRIT PETITION NO.12191 OF 2005

ORDER:

This writ petition is filed challenging the order of the Joint Collector, Kadapa, first respondent herein, in D.Dis(E3)/3511/2003, dated 10.05.2005, confirming the order of the Revenue Divisional Officer, Jammalamadugu, second respondent herein, in Ref.A/742/2001, dated 25.03.2003, whereunder the second respondent directed the Mandal Revenue Officer, Mydukur, third respondent herein, to delete the name of the petitioner in the revenue records in respect of the land admeasuring Ac.6-33 cents in Sy.No.487 of Nandyalampet Village, Mydukur Mandal, Kadapa District.

2. The case of the petitioner is that he purchased the subject land under a registered sale deed dated 18.07.1994 and from the date of purchase, he has been in possession and enjoyment of the same. The Revenue Authorities have also issued pattadar passbook and title deed in his favour. While so, when respondent Nos.4 and 5 herein interfered with the possession of the petitioner claiming that the subject land belongs to their ancestors, the petitioner filed a suit in O.S.No.216 of 1994 on the file of the Court of the Principal District Munsiff, Proddatur for declaration of title and for perpetual injunction. The Court below, by judgment and decree dated 02.12.1996, dismissed the said suit, challenging which, the petitioner filed an appeal in A.S.No.3 of 1997 on the file of the Court of the Senior Civil Judge, Proddatur. The appellate

Court also dismissed the appeal by its judgment and decree dated 09.05.2000, challenging which, the petitioner filed S.A.No.619 of 2002 before this Court and it is pending. In the meanwhile, respondent Nos.4 and 5 made a complaint before the second respondent seeking to cancellation of pattadar pass book and title deed issued in favour of the petitioner. On receipt of such representation, the second respondent has obtained a report from the third respondent, basing on which, he taken up the matter and passed orders in Ref.A/742/2001, dated 25.03.2003, directing the third respondent to delete the name of the petitioner in the revenue records in respect of the subject land and to make necessary corrections in the relevant R.O.R Register of Nandyalampet Village. Aggrieved by the order dated 25.03.2003, the petitioner filed a revision before the first respondent, who by his order dated 10.05.2005 in D.Dis(E3)/3511/2003, dismissed the revision, confirmed the order of the second respondent and remanded the matter to the third respondent for fresh enquiry. Challenging the same, the petitioner filed the present writ petition.

3. Heard.

4. Though the matter pertains to the year 2005 and though the matter underwent several adjournments, no counter affidavit has been filed by the respondents.

5. It is seen from the record that in pursuance of the directions of the second respondent, the third respondent submitted a report dated 31.08.2001 for cancellation of pattadar pass book issued in

favour of the petitioner, by referring the orders of the civil Courts in the suit as well as in the appeal. In pursuance of the said report, the second respondent, by order dated 25.03.2003, directed the third respondent to delete the name of the petitioner in the revenue records in respect of the subject land and to make necessary corrections in the relevant R.O.R Register of Nandyalampet Village. The said order has been confirmed in the revision by the first respondent. The action of the second respondent, in directing the third respondent to delete the name of the petitioner in respect of the subject land, basing on the report of the third respondent, though there is a civil litigation is still pending, is bad in law. Though the mutation was effected in favour of the petitioner in the year 1994 under Sections 4 and 5 of the Rights in Land and Pattadar Pass Books Act, 1971 (for short, the Act), respondent Nos.4 and 5 did not choose to prefer objections before the competent authority. That apart, the second respondent having information about the pendency of S.A.No.619 of 2002 on the file of this Court, has proceeded with the matter and has passed the order without appreciating the facts. When the matter is subjudised before a civil Court with regard to declaration of title, the revenue authorities are refrained from making any entries in the revenue records.

6. In **Velagapudi Satyanarayana v. District Collector, Nalgonda**¹ and **V.Goutham Rao v. Revenue Divisional Officer**², this Court held that wherever there is a serious dispute of title or

¹ 2000 (6) ALD 153

² 2003 (1) ALT 615

claims of any rival title, it would not only be proper for the authorities to refrain from proceeding with the enquires as such under the provisions of the Act, but also pragmatic for the parties to approach the civil Court for establishing their right, title and interest of whatsoever nature. Ultimately, the authorities would have to fall back on the finding of the civil Court. In view of the same, the entire exercise by the authorities under the Act would be a mere farce and nugatory. Therefore, the orders of respondent Nos.1 and 2 are liable to be set aside, as the same were passed without jurisdiction and contrary to law.

7. In the facts and circumstances of the case, this writ petition is disposed of, setting aside the order of the second respondent in in Ref.A/742/2001, dated 25.03.2003, and also the order of the first respondent in D.Dis(E3)/3511/2003, dated 10.05.2005. The petitioners and respondent Nos.4 and 5 are at liberty to workout their remedies that are available to them under law. No costs. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

Date: 05-01-2018
TJMR

T.AMARNATH GOUD, J