

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

WRIT APPEAL No.1171 OF 2018

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

The issue arises under the A.P. Rights in Land and Pattadar Passbooks Act, 1971 read with Rule 21 of the A.P. Rights in Land and Pattadar Passbooks Rules, 1989 (for short 'the Act' and the 'Rules' respectively).

The writ petitioner is the appellant. The appellant filed W.P.No.10346 of 2016 challenging the proceedings dated 06.03.2016 of 1st respondent. The 1st respondent through the proceedings impugned in the writ appeal by taking note of pendency of civil suits between the parties held as follows:

"The connected file of Tahsildar's office, Peddakadubur has examined and found that the Tahsildar, Peddakadubur has generated Form No.8 Notice and issued to the concerned VRO for publication in the Village. The VRO has also published the Notification in the village and No Objections have been received on 26.11.2015. Sri K.Md.Mazaharun Haq, Advocate, Yemmiganur issued a notice to the Tahsildar, Peddakadubur on behalf of his client Sri P. Thikka Reddy of Yemmiganur requesting not to issue any PPB & TD and also not to carry out mutations in favour of Sri C.V.Viswanatha Reddy for the above land under agreement of sale. The Tahsildar, Peddakadubur addressed the AGP, Adoni for issue of legal opinion to take further action in the matter. The AGP, Adoni issued legal opinion stating that Para III of the AGP report that a person holding an unregistered agreement of sale will get only right to enforce the agreement by filing a suit for specific performance. But the person who purchased the

property and got it registered in his name it is deemed to be title is conveyed. The remedy open for the said P.Thikka Reddy to file a suit for specific performance and after obtaining decree against from his vendor then he can make an application to the revenue authorities for mutation of his name in revenue record and also sought for issuance of pattadar passbook and revenue title deed. At present P.Thikka Reddy will be only right to enforce the agreement, but he cannot prevent the Tahsildar to act upon on the unregistered agreement obtained from his vendors M.Nagaraj and M.Shivashankar, his remedy is open only to file suit for specific performance against his vendors. After obtaining the opinion of the AGP, Adoni. The Tahsildar, Peddakadubur approved for issue of e-pattadar passbook through online and the PPB has generated in favour of Sri C.Vishwanatha Reddy and pending issue after thorough verification of the records it is revealed that the dispute over title between the objection petitioner Sri P.Thikka Reddy and the vendors Sri Machani Nagaraju and Machani Siva Shankar of Yemmiganur Town and Civil suits are also pending.

According to section 5(5) 5(B) & Rule 21 of ROR Act if there is a civil dispute the concerned Tahsildar should not carry out any mutation and also not to issue PPB/TD until the cases are disposed by the civil Courts.

In the circumstances explained above the entry made by the Tahsildar, Peddakadubur in respect of Sy.No.794 measuring 4.44 acres of Land of H.Muravani Village of Peddakadubur Mandal is hereby suspended U/s 5(5) 5(B) & Rule 21 of ROR Act and the issue of PPB is kept in abeyance till the disposal of the case by the Civil Courts”.

The appellant challenged the said communication unsuccessfully before learned Single Judge and hence the writ appeal.

The learned Single Judge in the order under appeal has considered the following aspects:

“Be it noted that it is for the Civil Court before which the suit filed by the 5th respondent is pending to adjudicate the issues, viz., ‘(i) Whether the suit contract of sale is genuine?; (ii) Whether the sale deed of the writ petitioner is sham and collusive?; (iii) Whether the writ petitioner is a bona fide purchaser for a valuable consideration without notice of the suit contract of sale? And, if so, whether the sale deed of the writ petitioner is immune from specific performance of the suit contract of sale?; and, (iv) Whether the suit contract of sale will have a precedence over the said sale deed?’ and other issues which may fall for determination in the said suit.

and held that the prayer of appellant if is accepted would alter the position of parties during the pendency of the suit.

The appellant, if disagrees with the basic circumstances viz., pendency of suit, incorporation of name in revenue record for the property in *lis* before the civil court etc., the complaint of appellant could be independently examined. On the other hand, there is no dispute on the circumstances which are considered by the order under appeal for holding that at this stage of the matter, no order under ROR Act cannot be made in favour of one or the other.

We have in this intra Court appeal examined the order impugned in this appeal and also the findings recorded by the learned Single Judge within the scope of clause 15 of Letters Patent. The findings recorded in the order under appeal conform to the scheme as provided under Section 8 of the Act. The parties are free to agitate their rights before the Civil Court and subject to the outcome of the civil litigation, the recording authority is under obligation to mutate

the name of a person as decreed by the Court. No ground is made out warranting interference.

The writ 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

10th September, 2018
Lrkm

S.V.BHATT, J

