

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION No. 186 of 2016

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner with the following reliefs :

“ to declare the inaction of Tahsildar in not implementing the Orders of the Revenue Divisional Officer, Guntur in Rc.No.5103/2012-A, dt. 12.12.2015 and action of the Sub Registrar in entertaining the document submitted by on behalf of respondent No.10 pertaining to the land in Sy.No.373/3 to an extent of Ac.5.09 cents in Rayapudi Revenue Village, Tullur Mandal, Guntur District, as illegal and arbitrary and consequently direct the Tahsildar to rectify all the revenue records and passbooks in line with the orders of the RDO in Rc.No.5103/2012-A, dt. 12.12.2015 and declare that the registration authorities cannot entertain any document pertaining to the land in Sy.No.372/3 for an extent of Ac.5.09 cents of Rayapudi Revenue Village, Tallur Mandal, Guntur District”.

The claim of the petitioner is that he is the owner of the land in dispute and the petitioner being aggrieved by an Order passed by Tahsildar for issuing pattadar passbooks under Andhra Pradesh Rights in Land and Pattadar Passbooks Act, 1971, to the Respondent No.10 filed Appeal before Revenue Divisional Officer and the Revenue Divisional Officer being the Appellate Authority passed an Order dt. 12.12.2015, but Tahsildar did not implement the Order and in the meanwhile, fake pattadar passbooks were created and sold the property and respondent No.5 entertained the registration and registered the document executed by the respondent No.10 in favour of 3rd parties. Mutation of the name of

son of 10th respondent is contrary to the Orders passed by the Revenue Divisional Officer dt. 12.12.2015.

Learned Government Pleader for Revenue brought to the notice of this Court that a revision was filed under Section 9 of the Act against the Order passed by the RDO in Revision No.5844 of 2015-D.5 and the Joint Collector by Order dt. 25.12.2016 confirmed the Order passed by the Revenue Divisional Officer and now the Order of the RDO is merged in the Order passed by Joint Collector. Aggrieved by the same, Writ Petition No.6838 of 2017 was filed before this Court and in that petition, an interim order was passed by this Court directing both parties not to alienate the property during pendency of the petition.

During hearing, learned counsel for the petitioner brought to the notice of this Court that he filed a private complaint under Section 200 Cr.P.C. for the offences punishable under Sections 420, 468 and 471 of IPC based on the Order passed by the Revenue Divisional Officer, and the same was referred to the Police by exercising power under Section 156(3) Cr.P.C. and on the strength of the reference, the police registered a case against respondent No.10 and issued FIR and it is pending for investigation. It is also brought to the notice of this that suit in O.S.No.246 of 2017 before III Additional District Judge was also filed for the relief of declaration of title and possession and it is pending.

When there is a dispute with regard to title, the parties are at liberty to approach the Court and the Order of the Authorities under the Act is only a *prima facie* proof of title. In view of Section 6 of the Act, if title deed is issued and it is in dispute, the parties may approach the Civil Court for declaration of their title and the entries made in the revenue records are subject to result of the suit. Therefore, the rights of the parties have to be determined in the Civil Court only and the complaint if any

lodged and pending for investigation with the police is an independent proceedings.

In view of the pendency of the suit, the Writ Petition does not survive for consideration. However, this Order will have no bearing on the complaint pending before the police for investigation for various offences referred supra. Hence, the petition is closed as it becomes infructuous in view of the pendency of the suit in O.S.No.246 of 2017 and the Police are liberty to investigate pending complaint uninfluenced by the Order of this Court.

With the above observation, this Writ Petition is disposed of.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

Date: 23-04-2018
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M. SATYANARAYANA MURTHY, J



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