

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.35626 of 2018

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed seeking to declare the proceedings of the 3rd respondent, dated 19.09.2018, as arbitrary and illegal and consequently set aside the same and direct the respondents to mutate the name of the petitioner as owner and possessor in respect of lands admeasuring No.Ac.2.74 cents in Survey No.294/3, Ac.4.34 cents in Survey No.295/1 and Ac.4.57 cents in Survey No.294/7A, situated at Gandrajupalli Village, Gangavaram Mandal, Chittoor District.

2. The case of the petitioner is that he is the absolute owner and possessor of the aforesaid property having purchased the same in an auction conducted by the Chittoor District Cooperative Central Bank Limited. After confirming sale, a Sale Certificate was also executed in favour of the petitioner on 20.02.2004. While so, the 4th respondent has issued notice under Rule 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, 2007, directing the petitioner to show cause as to why he should not be evicted from the subject lands. Aggrieved by the said notice, the petitioner filed W.P.No.6698 of 2008 and this Court allowed the said writ petition on 01.09.2014 by setting aside the notice.

3. It is stated that since the petitioner is in possession and enjoyment of the subject property, he made an application through A.P. Online service for mutation of his name in the revenue records and also submitted an application in Form 6-A in the prescribed form and paid challan on 17.10.2017. Though the said application

was acknowledged by the respondents, no action was taken. Therefore, he filed W.P.No.30877 of 2018 and this Court dismissed the said Writ Petition, basing on the written instructions produced by the learned Government Pleader, whereunder the application of the petitioner was rejected on 21.10.2017, giving liberty to the petitioner to make a fresh application enclosing all the relevant documents. In pursuance of order of this Court, dated 29.08.2018 in W.P.No.30877 of 2018, the petitioner approached the 5th respondent for copy of rejection order, dated 21.10.2017 so that he could see what documents are not tallying and make an appropriate application. On one pretext or other, the rejection order, dated 21.10.2017 was not given to the petitioner. After number of persuasions, the 5th respondent had issued proceedings on 19.09.2018, which is impugned in the writ petition.

4. Learned counsel for the petitioner submits that the order passed by this Court on 01.09.2014 in W.P.No.6698 of 2008 has become final, as such the petitioner's ownership and possession over the subject property cannot be questioned; that the 5th respondent has issued the impugned proceedings without application of mind and hence, he prays to set aside the impugned proceedings, dated 19.09.2018.

5. It is to be seen that this Court in the order passed in WP No.6698 of 2008, dated 01.09.2014, wherein the notice issued by the 4th respondent under Rule 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, 2007, seeking to evict the petitioner was set aside and that order became final. On earlier occasion, when the petitioner sought to mutate his name in the

revenue records, as the respondents did not move in the matter, the petitioner filed W.P.No.30877 of 2018 and this Court on written instructions of the learned Government Pleader, while dismissing the writ petition reserved liberty to the petitioner to make a fresh application enclosing all the relevant documents. In pursuance thereof, the petitioner approached the 5th respondent for copy of rejection order, dated 21.10.2017 so as to enable him to make application in proper format.

6. The grievance of the petitioner is that instead of pointing out the shortcomings in making the application for mutation of the revenue records, the 5th respondent issued the impugned proceedings dated 19.09.2018 informing the petitioner that the request of the petitioner for mutation of the lands in question cannot be mutated in the webland as the land in question is a DKT patta land.

7. In the earlier order passed by this Court in WP No.6698 of 2008, dated 01-09-2014, this Court having referred to the Division Bench decision of this Court in **SUB-REGISTRAR, SRIKALAHASTI, CHITTOOR DISTRICT vs. K. GURAVIAH (2009 (2) ALD 250 (DB))** observed that the lands in question purchased by the petitioner in an auction conducted by the Chittoor District Co-operative Central Bank Limited and the land in question losses its character as assigned land virtue of the same. Therefore, it is not open for the respondents now to contend that auction of land is not valid and mutation in the revenue records cannot be made.

8. In the circumstances, the Writ Petition is allowed setting aside the order, dated 19.09.2018, passed by the 3rd respondent and the 4th respondent is directed to consider the application of the petitioner afresh and take action in accordance with law for mutating the name of the petitioner, within a period of four (4) weeks from the date of receipt of a copy of this order.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

A.RAJASHEKER REDDY, J

NOVEMBER 8, 2018
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Date:08.11.2018

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