HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.39323 OF 2018

ORDER :

The case of the petitioner is that he is one of the shareholder in respect of agriculture land in Survey No.180, admeasuring Ac.11.07 guntas and land in Sy.No.186, admeasuring Ac.4.15 guntas at Vemula Village, Moosapet Mandal, Mahabubnagar District. In the above land, Late Mogulanna who is the father of the petitioner has 1/4th share and out of the said 1/4th share, the petitioner and his brothers who are the sons of Late Mogulanna are having each 1/5th share. When the other shareholders did not agree for partition in respect of the above land for division of the same in four shares and allotment of the said 1/4th share to the five sons of Late Mogulanna including the petitioner, the petitioner and his brother Venkat Ramulu filed OS.No.503/2008, for partition and the same is pending. During pendency of the said suit, when the other shareholders proposed to alienate the said suit property to third parties, the petitioner filed IA.No.411/2014 seeking injunction not to alienate the above land to third parties pending suit and the said application was allowed on 29.01.2015 directing all the shareholders not to alienate any part of the suit schedule property to third parties. But, contrary to the said order some of the shareholders said to have executed the sale deeds alienating part of the said suit land in favour of respondents 4 to 6 in survey No.180 and part of land in Survey No.186 in favour of respondents 7 and 8. Based upon the above sale deeds the unofficial respondents said to have obtained ROR proceedings in their favour from the office of the 3rd respondent in file No.B/1964/2004, dated 13.07.2004. Aggrieved by the same the petitioner and his brother filed appeal before the RDO, Mahabubnagar in appeal No.B/ROR/1986/2008 and the said appeal was allowed by order dated 16.11.2011. Aggrieved by the same, some of the unofficial respondents filed revision before the Joint Collector, Mahabubnagar in case No.D1/14/2012 and the said revision was dismissed by order dated 27.12.2014 which has become final. Therefore, as per the orders passed by the RDO, dated 16.11.2011 and also order of the Joint Collector dated 27.12.2014, no part of the land in Survey Nos.180 and 186 are not alienable to anybody pending civil suit and the 3rd respondent is also not entitled to mutate the name of the unofficial respondents in the ROR in respect of the above land. However, again the 3rd respondent recorded the names of the unofficial respondents in the ROR and taking advantage of the same, the unofficial respondents said to have submitted the applications to the 3rd respondent to obtain new pattadar pass book and also to obtain Rs.4,000/- per acre under Rythu Bandhu Scheme. The grievance of the petitioners is that though they have objected the same by enclosing the copies of the orders passed by the RDO dated 16.11.2011 and Judgment in IA.No.411/2014, the 3rd respondent by ignoring the objections erroneously issued new pattadar pass books in favour of the unofficial respondents. The petitioners also submitted representation to the 2nd respondent dated 20.09.2018 to conduct enquiry against the authorities and to stop payment of second instalment under Rythu Bandhu Scheme. Without considering the same, the 3rd respondent is proceeding further in the matter to disburse the second instalment amount under Rythu Bandhu Scheme to the unofficial respondents. Aggrieved by the same, present writ petition is filed.

Heard learned counsel for the petitioners who reiterated the contents in the writ affidavit.

Learned Assistant Government Pleader for Revenue submits that basing on the registered sale deeds, pattadar pass books were granted in favour of unofficial respondents, and as such, no enquiry can be granted by the respondent authorities regarding validity of the documents executed in favour of respondents 4 and 5. He also submits that it is for the petitioner to approach civil court and obtain appropriate orders; and that the petitioners filed suit OS.503/2008 in the year 2008 and obtained injunction in IA.No.411/2014 in the year 2014. He also submits that before obtaining injunction in IA.No.411/2014 sale is affected, and as such, no relief can be granted to the petitioners on the basis of the same.

The said aspect of alienating the subject property by the respondents prior to obtaining injunction by the petitioners, could not be disputed by the learned counsel for the petitioners.

In view of the facts and circumstances, since, even according to the petitioners sale is affected by the other shareholders in favour of respondents 4 and 5 before obtaining injunction orders in the suit by the petitioners, injunction cannot come to the rescue of the petitioners. The dispute between the petitioners and respondents 4 and 5 and other shareholders is civil in nature. This Court cannot got into the disputed questions of fact and declare the title of the petitioner nor validity of other sale deeds said to have been executed by other shareholders in favour of respondents 4 and 5, as rightly contended by the learned Assistant Government Pleader for Revenue.

In view of the above facts and circumstances, this Court is not inclined to entertain the writ petition. Accordingly, the writ petition is dismissed granting liberty to the petitioners to avail alternate remedy as may be available to them under law. No order as to costs.

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

A.RAJASHEKER REDDY, J

01.11.2018
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