

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NO.30308 OF 2016

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner to declare the order dated 24.05.2016 of the Tahsildar, Kaligiri, Kaligiri Mandal, S.P.S.R Nellore District rejecting the petitioner's application without mutating the petitioner's name in the revenue records and without issuing pass book for the land in patta No.140 Sy.No.97-2 for an extent Ac.0.78 cents (Total extent Ac.1.68 cents) situated at Peda Annaluru village, Kaligiri Mandal, S.P.S.R.Nellore District is arbitrary, illegal and against the principles of natural justice.

According to the petitioner, the property was purchased in Court auction in execution of decree and the sale was knocked down in his favour being highest bidder, sale certificated was obtained and took possession of the property. In view of acquisition of right in the property, the petitioner made an application in Form VI (A) under section 4 (1) of the Act read with Rule 18 of the Rules framed under the Act intimating about the acquisition of right in the land by online application bearing No.MUO11602255868 dated 25.04.2016, but the Tahsildar passed unreasoned order rejecting the request of the petitioner, hence the order passed by the Tahsildar is illegal and prayed to set aside the same.

The petitioner purchased the property in Court auction and obtained delivery of possession of the property through process of Court after receiving sale certificate. The intimation of acquisition of rights under Section 4 of the Act by any individual shall be in Form VI-A.

Section 4 (1) of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short “the Act”) reads thus:

“4.Acquisition of rights to be intimated: – (1) Any person acquiring by succession, survivorship, inheritance, partition, Government patta, decree of a Court or otherwise any right as owner, pattadar, mortgagee, occupant or tenant of a land and any person acquiring any right as occupant of a land by any other method shall intimate in writing his acquisition of such right, to the Mandal Revenue Officer within ninety days from the date of such acquisition, and the said Mandal Revenue Officer shall give or send a written acknowledgment of the receipt of such intimation to the person making it:

Provided that where the person acquiring the right is a minor or otherwise disqualified, his guardian or other persons having charge of his property shall intimate the fact of such acquisition to the Mandal Revenue Officer.”

Rule 18 deals with maintenance of record of rights, which includes: correction of entries in pursuance of orders passed under Rule 17 and incorporation of all mutations in the respective entries in pursuance of orders passed under Section 5 of the Act.

The petitioner submitted an application in Form VI (A) under section 4 (1) of the Act read with Rule 18 of the rules framed under the Act, but the Tahsildar rejected the said application without assigning any reason.

Section 5-B of the Act provides appeal to the Revenue Divisional Officer. As per Section 5-B of the Act, an appeal shall lie against an order passed by the Mandal Revenue Officer under subsection (4) of Section 5-A, to the Revenue Divisional Officer within thirty days of the date of communication of the order. But this has no application to the facts of the present case. As per Section 9 of the Act revision lies to the Collector and the Collector may either suo motu or on an application made to him, call for and examine the record of any Recording Authority, Mandal Revenue Officer or Revenue Divisional Officer under Sections 3, 5, 5A or 5B, in respect of any record of rights prepared or maintained to satisfy

himself as to the regularity, correctness, legality or propriety of any decision taken, order passed or proceedings made in respect thereof and if it appears to the Collector that any such decision, order or proceedings should be modified, annulled or reversed or remitted for reconsideration, he may pass orders in accordance with law.

When an application is made under Section 4 (1) of the Act, the Mandal Revenue Officer shall pass order under Section 5 of the Act, against such order revision lies to the Collector under Section 9 of the Act, but not appeal. Without exhausting the statutory remedy available to the petitioner, he approached this Court invoking Article 226 of Constitution of India and the jurisdiction of this Court is limited. Therefore, when statutory remedy is available to the petitioner under the Act, the petitioner can approach the Collector under Section 9 of the Act by filing appropriate application and the time to prefer revision is barred. Therefore, time is extended for one month from today enabling the petitioner to prefer revision. Hence, I find no ground to allow the petition. Consequently, the writ petition is liable to be dismissed.

In the result, the writ petition is dismissed. However, one month time is granted from today to prefer revision under Section 9 of the Act. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

25.04.2018
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