

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.7422 OF 2019

ORDER:

1. Petitioner contends in this Writ Petition that she is the owner and is in peaceful possession of the property of an extent of Acs.1.35 guntas in Sy.No.1070 and Acs.2.35 guntas in Sy.No.1093 of Ameenpur Village, Patancheru Mandal/Sangareddy Mandal, Sanga Reddy District; that she purchased the property under a registered sale deed dt.17.05.2000; that earlier the land belonged to one L.Balaiah, but it was recorded as "Khariz Khata" in the Khasra Pahani 1954-55; that in 1960, the then Tahsildar, Sanga Reddy submitted proposals for assignment of these lands vide Proceedings in Letter No.A2/20181/1960, and the District Collector, acting on the same sanctioned Lavuni Patta in favour of said Balaiah vide Proceedings No.A1/3271/1961 dt.10.04.1961.

2. It is contended by the petitioner that the said assignment of land was sanctioned under Section 54 of the Telangana land Revenue Act 1317 Fasli read with Rule 18 of Lavuni Rules and there was no clause of non-alienability of the said land; that thereafter the land underwent several transactions and ultimately the petitioner purchased it; that petitioner's name was also mutated in the revenue records and pattadar passbook and title deeds were issued in her name; but in the year 2005, again the property was recorded as "Khariz Khata" instead of "patta" in the pahanies of 2005 and the word "patta" earlier written was struck off and the word "Khariz Khata" was interpolated.

3. It is contended that this was brought to the notice of the Revenue Authorities by the petitioner through a representation and after enquiry it was rectified and the property was recorded as “patta” till 2010-11, but thereafter again it is being recorded as “Khariz Khata”.

4. Petitioner contends that she gave a representation on 03.08.2016 to the Tahsildar, Ameenpur Village(4th respondent) to rectify the said error; that the 4th respondent then conducted an enquiry and issued proceedings Letter No.B1/1499/2016 dt.26.08.2016 stating that the petitioner’s request was genuine; that her land was patta land and not “Khariz Khata” land and there was a Lavuni Patta sanctioned on 10.04.1961 under Lavuni Rules mentioned in Gashthi No.19 dt.24.05.1937.

5. It is the contention of the petitioner that in spite of the said proceedings dt.26.08.2016 issued by the 4th respondents, the respondents are continuing to show the property of the petitioner as “Khariz Khata” land and that this is illegal, arbitrary and unconstitutional.

6. Counter affidavit was filed by the 4th respondent on 14.06.2019. On 17.06.2019, this Court found fault with the same and passed the following order:

“The counter-affidavit filed by the Tahsildar, Ameenpur Mandal, leaves a lot to be desired as there is not even a mention of the proceedings dt.26.08.2016 which is the basis for the petitioner’s case. Further, the counter-affidavit does not explain as to on what basis entries in the revenue record to the effect that it was a patta land were rounded off and

Khariz Khata was mentioned. An additional counter shall be filed by the next date of hearing.”

7. Though the matter was adjourned to 27.05.2019, it was listed only on 23.09.2019, almost three months later, but no additional counter affidavit as directed on 17.06.2019 by this Court has been filed. No valid explanation is forthcoming from the Government Pleader for Revenue as to why, in spite of such opportunity being given, the respondents have not chosen to avail of it and place the correct facts before the Court.

8. Therefore, the Writ Petition is being dealt with on the basis of the counter affidavit already filed.

9. In para 2 of the counter, it is stated that though in the Khasra Pahani of 1954-55, the land is classified as ‘Sarkari’ and in the pattedar column, the word “Khariz Khata” is mentioned as per ROR of 1979-80, and that the name of Sri T.Mohan Reddy was recorded as pattedar and this continued up to 1989-90.

10. It is admitted that the then Mandal Revenue Officer issued proceedings No.E/1301/2006 recording the name of the petitioner as pattadar.

11. Why this was changed to the detriment of the petitioner by mentioning the land as “Khariz Khata” instead of ‘Patta” is not explained in the counter affidavit and a bald statement is made that the petitioner submitted false information about the classification of the subject land and tried to misrepresent the facts to the Court.

12. No explanation is offered by the 4th respondent regarding the proceedings dt.26.08.2016 of his predecessor, which is being relied upon by the petitioner.

13. Copy of the proceedings No.A1/3271/61 dt.10.04.1961 issued in favour of Chakali Mallaiah and several others in respect of various lands including the land in Sy.No.s 1070 and 1093 of Ameenpur village has also been placed on record by the counsel for the petitioner.

14. The said proceeding is in fact referred to by the 4th respondent in the proceedings dt.26.08.2016 issued in favour of the petitioner, and the 4th respondent had stated in the said proceedings that the District Collector, Medak had sanctioned Lavuni Patta in favour of those mentioned therein under Section 54 of the A.P (Telangana Area) Land Revenue Act, 1317 Fasli and under Rule 18 of the Lavuni Rules mentioned in Gashthi No.19 dt.24.05.1937 AD, and that the District Collector, Medak had accorded sanction to the proposal under the Special Lavuni submitted by the then Tahsildar. It was also mentioned in the said order that the District Collector, Medak's proceedings dt.10.04.1961 were implemented in Faisal Patti for 1961 and the Nazim-E-Jamabandi has granted Lavuni Izafa in favour of Khariz Khata lands under Section 54.

15. If the statement in the proceedings dt.26.08.2016 of the then Tahsildar, Patancheru issued to the petitioner referring to the proceedings dt.10.04.1961 of the District Collector, Medak is not correct, then the 4th respondent along with the counter should have

produced copy of the said proceedings dt.10.04.1961 of the District Collector, Medak to disprove the contention of the petitioner. This proceeding dt.10.04.1961 is deliberately suppressed by the respondents.

16. In fact, in para 8 of the Counter the existence of the said proceedings dt.10.04.1961 of the District Collector, Medak is admitted and this clearly falsifies the stand taken by the 4th respondent in the counter.

17. It is therefore held that the action of the respondents in treating the above land of the petitioner as “Khariz Khata” in the revenue records is without authority of law, is contrary to the record and is clearly arbitrary and violative of Articles 14 and 300A of the Constitution of India.

18. Accordingly, the Writ Petition is allowed; the action of the respondents, and in particular the 4th respondent, in not giving effect to the proceedings in Letter No.B1/1499/2016 dt.26.08.2016 and continuing to show the above property of the petitioner as “Khariz Khata” is declared as illegal, arbitrary and unconstitutional and violative of the provisions of Telangana Rights in Land and Pattadar Passbook Act, 1971 and also Article 300A of the Constitution of India; and the respondents are directed to give effect to the same and restore the entries in the revenue records with respect to the said property as “patta” land within a period of four (04) weeks from the date of receipt of a copy of this order. No order as to costs.

19. Consequently, miscellaneous petitions pending if any shall stand dismissed.

M.S. RAMACHANDRA RAO, J

01st October, 2019.

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