

HONOURABLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No.10435 of 2019

ORDER:

The prayer of the petitioner in this case reads as under:-

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon’ble Court may be pleased to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus declaring the Endorsement C-4826/2019 dated 30.04.2019 of the 4th Respondent here as illegal, arbitrary, unreasonable, contrary to the provisions of Rights in lands and Pattadar Passbooks Act, violation of principles of natural justice and also violation of Articles 14, 21 and 300A of the Constitution of India and issue a consequential direction to respondent Nos.1 to 4 herein to restore the name of the Petitioner in the Revenue Records for the Sy.No.616/2 (0.30 Gts) of Kandi Village and issue Passbook in respect of Sy.No.19/A2 (0.05 Gts) Sy.No.771/E2 (0.31 Gts) and Sy.No.616/2 (0.30 Gts) of Kandi Village & Mandal, Sangareddy District to the petitioner and to pass such other order or orders as this Honourable Court may deem fit and proper in the facts and circumstances of the case.”

Perusal of the record reflects that the petitioner claims rights in the subject land under her deceased husband, Mallepally Narsaiah, who was issued a regular pattadar pass book under the Telangana Rights in Land and Pattadar Pass Books Act, 1971, wherein his landholding was recorded as an extent of Ac.0.05 guntas in Survey No.19/A2, an extent of Ac.0.30 guntas in Survey No.616/2 and an extent of Ac.0.31 guntas in Survey No.771/E2 of Kandi Village and Mandal, Sanga Reddy District. Upon his death, the petitioner was issued a regular pattadar pass book by succession, wherein her landholding was shown as an extent of Ac.0.05 guntas in Survey No.19/A2 and an extent of Ac.0.31 guntas in Survey No.771/E2 of Kandi Village and Mandal, Sanga Reddy District.

That the petitioner approached the Tahsildar, Kandi Mandal, Sanga Reddy District, in relation to the exclusion of her landholding

in Survey No.616/2 of Kandi Village by way of application dated 27.4.2019. Thereupon, the Tahsildar, Kandi Mandal, Sanga Reddy District, issued the impugned endorsement dated 30.4.2019 which reads as under:

“Smt Mallepally Narasamma, W/o Narsayya, R/o Kandi Village has requested the Hon’ble KTR through her tweet dated 27.4.2019 for issue of pattadar pass book in respect of Sy.Nos.771/E2 (0.31 gts) 19/A2 (0.05 gts) and 616/2 (0.30 gts), Kandi Village.

During his lifetime, Mallepally Narsayya, S/o Mallayya, has made the land of Ac.0.31 gts in Sy.No.771/E2 into plots and sold away through registered sale deeds in between the period 1991-1998. And the Sy.No.616/2 extent (0.30 gts) was already resumed for the public purpose and make it into plots and handed over to the persons whose lands are acquired for the purpose of IIT.

And the remaining Sy.No.19/A2 (0.05 gts) was already sold away through unregistered sale deed dated 07.8.2012 for Rs.40,000/- by Mallepally Narsaiah, S/o Mallayya, R/o Kandi Village to Smt Mallepally Manjula, W/o Ratnaiah. At present, the above lands are converted into house plots and the same is not in occupation hence amendment/change of registry cannot be sanctioned. Therefore, issuing of passbooks is not possible.”

Be it noted that the petitioner did not voice any grievance before the Tahsildar, Kandi Mandal, Sanga Reddy District, as to her landholding in Survey Nos.19/A2 and 771/E2 in relation to which she has already been issued a pattadar pass book. However, the Tahsildar, Kandi Mandal, Sanga Reddy District, recorded in the impugned endorsement that she would not be entitled to mutation in relation to these lands also and that a pattadar pass book would not be issued to her. The Tahsildar, Kandi Mandal, Sanga Reddy District, seems to have lost sight of the fact that a pattadar pass book was already issued to the petitioner on the strength of the mutation carried out in her favour in relation to the lands in these two survey numbers.

Further, it may be noted that the Telangana Rights in Land and Pattadar Pass Books Act, 1971, does not confer the power of review upon a Tahsildar, whereby the Tahsildar, Kandi Mandal, could have set at naught the mutation already effected in favour of the petitioner and the pattadar pass book that was issued to her on the strength thereof.

The endorsement dated 30.4.2019 is therefore patently illegal and without jurisdiction as it was issued in exercise of review power which did not exist. The impugned endorsement dated 30.4.2019 is accordingly set aside.

The grievance of the petitioner with regard to her claim over the land admeasuring Ac.0.30 guntas in Survey No.616/2 of Kandi Village and Mandal, Sanga Reddy District, necessarily has to be addressed by way of an appeal or revision in the event her request in that regard was not taken into consideration by the Tahsildar, Kandi Mandal, while effecting mutation earlier and issuing her a pattadar pass book only with regard to the lands in the other two survey numbers.

Leaving it open to the petitioner to take recourse to such remedy in accordance with the due procedure, the Writ Petition is allowed to the extent indicated above.

Pending Miscellaneous Petitions, if any, shall also stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

17th June, 2019
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