HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.13092 OF 2019

Date: 01.07.2019

Between:

Thatikayala Bhaskar s/o. late Somanarsaiah,
Aged 54 years, r/o. H.no.2-150, Thimmampet (V),
Zaffargadh (M), Jangoan District and another.

.....Petitioners

and

State of Telangana, rep.by its Prl.Secretary,
Revenue Department at TS Secretariat,
Hyderabad and others.

.....Respondents

The Court made the following:

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ORDER:

Petitioners claim to be the owners and in possession of land to an extent of Ac.0.11 guntas and Ac.0.10 guntas in Sy.No.96/A/1 of Thimmampet village, Zaffargadh Mandal, respectively. Petitioners claim that above property was gifted to them by way of registered gift deeds dated 02.03.2019 by their mother. In this Writ Petition, petitioners challenge the jurisdiction of the Revenue Divisional Officer to entertain the Appeal in R.C.No.B/166/2019, preferred by the unofficial respondent herein under Section 5(B) of the A.P. Rights in Land and Pattedar Pass Books Act, 1971 (Act, 1971).

2. From the averments in the appeal preferred by the unofficial respondent, it appears that unofficial respondent claims that subject land, together Ac.0.21 guntas was sold to him by way of simple sale deed and his name was reflected in the revenue records in possessor column, and his occupation is not disputed. He claims to have submitted application for mutation of his name in the revenue records in pattadar column and to issue pattadar pass books and title deeds. It appears, enquiry was conducted and during the course of enquiry also, it revealed that unofficial respondent is in possession. Alleging inaction on the part of Tahsildar in taking a decision, though enquiry was conducted, appeal was preferred before the Revenue Divisional Officer praying to direct the Tahsildar to rectify the entries made in the pahanies in pattadar and occupancy columns and to record the name of unofficial respondent therein and to issue pattadar passbooks and title deeds.

3. Learned counsel for petitioners sought to contend that as no decision was made by the Tahsildar, appeal is not maintainable and Revenue Divisional Officer ought not to have entertained the appeal. He also sought to contend that the basis of the claim of unofficial respondent was on unregistered sale deed and unless unregistered sale document is validated, he cannot seek for correction of revenue records. The Court is not expressing any opinion on merits on the aspect of unofficial respondent claim for mutation of his name in the revenue records based on unregistered sale deed, which are matters for consideration by the Tahsildar. Suffice to note that unofficial respondent made application to the Tahsildar, and enquiry was conducted. Admittedly, petitioners have participated in the enquiry.

4. A person claim to have acquired property is entitled to seek mutation of his name in revenue records. It is a valuable right and enjoyment of a property peacefully depends on entries in revenue records. When authority required to act on his application sits tight he cannot be remediless. It is the bounden duty of the Tahsildar to act upon the application and communicate his decision. Against the decision of Tahsildar, appeal is maintainable before the Revenue Divisional Officer. Being the appellate authority, it cannot be said that he is not the competent to deal with the complaint of an aggrieved person against original authority, not taking decision even though enquiry was conducted.

5. As appellate authority and authority superior in rank, it is always open to him to issue appropriate directions to his subordinate. In matters of this nature, if remedy of appeal is shutout on the ground that no decision is made by Tahsildar, the

aggrieved person would be without remedy, when, as in this case, deliberately or otherwise authority required to act on an application does not take decision and sits tight. Further, it is apparent from reading of Section 5-B of the Act, 1971, the Revenue Divisional Officer is also vested *suo motu* power to call for records or proceeding from the Recording Authority and to inspect it in order to satisfy himself that the order or decision passed or the proceedings taken is regular, legal and proper and make suitable order in that behalf. Thus, wider discretion is vested in the appellate authority. Petitioners have not responded to the notice issued by the appellate authority. Apparently, as of now, no decision is made by the appellate authority. Therefore, the Court is not inclined to entertain the Writ Petition at this stage.

6. At this stage, learned counsel for petitioners places reliance on the decision of this Court in **Vutukuru Subba Rao and others v. State of A.P., rep.by its Revenue Secretary and others**[1]. Said decision does not come to the aid of petitioners as in that case appeal was directly preferred without exhausting the remedy before the original authority. Thus, leaving it open to petitioners to raise all pleas as available in law before the appellate authority, Writ Petition is dismissed. Pending miscellaneous petitions shall stand dismissed.

JUSTICE P.NAVEEN RAO

Date: 01.07.2019
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[1] 2014 (5) ALT 733

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