THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.18604 of 2019

ORDER:

The order dated 24.11.2018 passed by the 2nd respondent-Joint Collector, Medak District, in F3/967/2017, is challenged before this Court. *Vide* the impugned order, the 2nd respondent, in exercise of revision jurisdiction under Section 9 of the A.P Rights in Land and Pattadar Passbooks Act, has set aside the order of the 3rd respondent-appellate authority; thereby restored the order passed by the 4th respondent-Tahsildar.

It is the claim of petitioners that they are the original owners and pattadars of land admeasuring Ac.15-00 guntas in Survey No.250, and Ac.3-00 guntas in Survey No.252 of Ramanthapur Village, Yeldurthy Mandal, Medak District; and that the respondents have illegally obtained mutation of their names in the records by fraudulent means basing on invalid documents. Making such a claim, the petitioners approached the 4th respondent-Tahsildar/primary authority seeking correction in entries in revenue records; however, the same came to be refused. On appeal by the petitioners, the 3rd respondent-Revenue Divisional Officer/appellate authority, after issuing notice and conducting enquiry, allowed the appeal and also directed the Tahsildar to effect mutation in favour of the petitioners and their sons. Aggrieved by the order of the Revenue Divisional Officer, the respondents filed a revision petition before the 2nd respondent-Joint Collector/revision authority. The 2nd respondent-Joint Collector, exercising powers under Section 9 of the Act, allowed the revision, by setting aside the order of the appellate authority and reviving the order passed by the Tahsildar, thus, the names of the revision petitioner came to be restored in the revenue records.

Aggrieved by the order of the 2nd respondent-Joint Collector, this writ petition is filed by the petitioners before the appellate authority-Revenue Divisional Officer.

Learned counsel for the petitioners, by drawing attention to the notice, submits that the petitioners have been in possession of the subject land, and that the property is alleged to have been transferred in favour of one party or the other, and finally the names of respondents 6 and 7 have been entered in the revenue records. Learned counsel submits that the 2nd respondent, without considering the merits of the case and without appreciating the fraud committed by the respondents 6 and 7 in obtaining entries in revenue records, allowed the revision. Inasmuch as the very basis on which the transfer was made in the year 1988 itself being invalid, the subsequent transactions and alterations made in the revenue records are also unsustainable. In those circumstances, the petitioners seek a Writ of Certiorari by calling for the records and quash the impugned order dated 24.11.2018.

Learned Government Pleader for Revenue opposes the writ petition and submits that the order passed by the Joint Collector is on appreciation of both facts and law. He would further assert that the argument advanced by the learned counsel for the petitioners to the effect that there being no valid title in favour of respondents 6 and 7, no rights would accrue and therefore, mutation could not have been effected in favour of respondents 6 and 7, is an erroneous argument and the same does not command acceptance. Learned Government Pleader submits that the revisional authority, by making reference to the law governing cancellation of documents, particularly Section 31 of the Specific Relief Act, 1963 opined that it is only the Civil Court which can annul a document and therefore, the order passed by the 2nd respondent-Joint Collector restoring the order of the Tahsildar, cannot be found fault with.

Having regard to the respective submissions, even as per the pleadings of the petitioner, the first transaction of Sada Bainama (unregistered sale deed) came to be executed on 13.12.1988, thereafter followed by registered sale deed dated 29.03.1997 and thereafter further registered sale deeds.

It is not in dispute that the names of respondents 6 and 7 were entered in the revenue records much prior to the filing of the Application before the primary authority. The date is not discernible from the material on record. As can be seen from the order of the Revenue Divisional Officer, the petitioners had filed appeal before the Revenue Divisional Officer in 2006 seeking to enter their names in the revenue records from the year 1990-91 to 2004-05 after deleting the names of (i) Suresh Kumar Jain, (ii) Amgoth Sambaiah, (iii) Mangalchand, and (iv) Smt Chandra Bai W/o Mangalchand. The appeal came to be allowed.

Respondent No.6 filed a revision before the Joint Collector, challenging the orders of the Revenue Divisional Officer. The fact of the matter is that the petitioners appeal before the Revenue Divisional Officer seeking change of entries in revenue records of 1990-91 to 2004-05 is itself not maintainable, as the limitation to file an appeal is 60 days from the date of the orders made under Section 5(3) of the Act; and therefore the very entertaining of the appeal by the Revenue Divisional Officer, under Section 5(5) of the Act, is unsustainable, as there is no power vested with the Revenue Divisional Officer to condone the delay in filing appeal, in terms of Section 5 of the Act. However, as submitted by the learned Government Pleader that a registered conveyance deed cannot be annulled, and cannot be ignored by the revenue authorities and as the revenue entries were made in favour of private respondents in terms of Section 4 read with Section 5 of the Act, as long as the said sale deed stands, the entries made based on the said sale deeds cannot be altered by the authorities.

In those circumstances, the writ petition is dismissed as being devoid of merit. However, the dismissal of the writ petition does not disentitle the petitioners from asserting their right, title or interest, if any, in accordance with law, before the competent Civil Court, subject to limitation and other parameters applicable as per law. No costs.

Miscellaneous petitions, if any pending, shall stand closed.

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CHALLA KODANDA RAM, J

27th August, 2019

KSM

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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