

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.16140 of 2019

ORDER:

The petitioner, who is defendant No.1 in O.S.No.94 of 2010 on the file of Senior Civil Judge, Suryapet, claims to be one of the coparceners in the property situated in Survey No.158 (A-schedule) and 157/AA (B-schedule), admeasuring Ac.1-04 guntas and Ac.2-00 guntas, respectively, of Kudakuda Village of Chivvemla Mandal, Suryapet District. He asserts that in O.S.No.94 of 2010, a Preliminary Decree came to be passed by the Senior Civil Judge, Suryapet, on 20.12.2010, by allotting 1/4th share to the plaintiff and defendants 1 to 3 each, in the suit schedule properties by separate metes and bounds. It was further decreed that the Registered Sale Deed bearing No.2032/2008, dated 27.02.2008, on the file of Sub-Registrar, Suryapet, executed by the petitioner in favour of defendant No.4, as null and void and not binding on the plaintiff.

It is the submission of the learned counsel for the petitioner that the 5th respondent played fraud and got his name mutated in the records and also obtained 13-B certificate on 29.01.2008 basing on a false and fabricated document, and the said fact came to the knowledge of the petitioner only when O.S.No.345 of 2016 was filed by the 5th respondent. Immediately, the petitioner filed an appeal before the 3rd respondent-Revenue Divisional Officer, vide Appeal No.D2/845 of 2017, under Section 5 of the A.P. Rights in Land and Pattadar Pass Books Act, 1971, challenging the mutation made in the entries in favour of the 5th respondent. Though the appeal was filed as far back as 2017, along with a stay petition, neither the Appeal nor the Stay petition was disposed of by the Revenue Divisional Officer.

Taking advantage of the inaction on the part of the 3rd respondent-appellate authority, the 5th respondent filed an application before the 3rd respondent under the A.P. Agricultural Lands (Conversion for Non-Agricultural Purposes) Act, 2006, seeking to convert the subject lands for non-agricultural purposes, and if the land is converted into a non-agricultural land, the petitioner would suffer irreparable loss as the

petitioner is entitled for a share in the land in terms of the Preliminary Decree dated 20.12.2010 and the final decree is yet to be passed in O.S.No.94 of 2010.

In those circumstances, learned counsel for the petitioner seeks direction to the 3rd respondent to decide the appeal filed by the petitioner in 2017 in a time bound manner, and until such time the appeal is decided, the 3rd respondent shall not allow the conversion of subject lands for non-agricultural purposes.

Learned Government Pleader would submit that the writ petition may be disposed of with a direction to the 3rd respondent to decide the appeal expeditiously.

Considering the nature of relief sought by the petitioner, and considering the fact that a Preliminary decree has been passed in O.S.No.94 of 2010, and also considering that the appeal filed by the petitioner is pending before the Revenue Divisional Officer since 2017, the 3rd respondent is directed to pass appropriate orders in the Appeal No.D2/845 of 2017 filed by the petitioner, as expeditiously as possible, in any event, not later than six weeks from the date of receipt of a copy of this order, in accordance with law, after hearing both the contesting parties and after perusing the record. And till the time the appeal is disposed of by the 3rd respondent-Revenue Divisional Officer, he shall not pass any orders on the application alleged to have been made by the 5th respondent for conversion of agriculture land to non-agriculture use, as changing the nature of property during pendency of the appeal would cause prejudice to the petitioner.

With the above direction, the writ petition is disposed of. No costs. Miscellaneous petitions, if any pending, shall stand closed.

CHALLA KODANDA RAM, J

14th August, 2019

Note: Issue C.C. in one week.
B/o KSM

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KSM