

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

W.P.No. 24604 of 2019

Date: 11.11.2019

Between :

Nalla Buchamma

Petitioner

And

State of Telangana, rep. by its
Principal Secretary, Revenue Department,
Secretariat Building, Hyderabad & others.

Respondents



This court made the following :

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ORDER :

Heard learned counsel for petitioner and learned Government Pleader for Revenue and perused the record.

2. Petitioner claims to be owner and possessor of land admeasuring Ac.1-01 ½ guntas in Sy.No.130/D of Nellutla village, Lingala Ghanpur mandal, Jangoan district having purchased the same from its pattadar i.e. 4th respondent vide registered sale deed bearing document No.5601/2009 dated 25.9.2009. According to petitioner, she applied for mutation of her name in the revenue records and based on her application and after conducting due enquiry, her name was mutated and pattadar passbook and title deed was also issued in her favour, by allotting sub-division with Sy.No.130/D/3/2 and ever since petitioner along with her son are in possession of the said land by cultivating the same. The averments further discloses that Respondent No.4 is the pattadar of total land admeasuring Ac.24-33 guntas in Sy.No.130 and out of which, she sold away an extent of Ac.7-17 ½ guntas to third parties and retained the balance extent of Ac.17-15 guntas of land with her.

3. Petitioner earlier filed W.P.No.20941 of 2019 before this Court, alleging inaction on the part of Tahsildar in taking action on her application for issuing 'e' pattadar passbook in respect of subject land i.e. Ac.1-01 ½ guntas in Sy.No.130/D of Nellutla village and this Court vide order dated 26.9.2019 in I.A.No.1 of 2019 in W.P.No.20941 of 2019 granted interim direction, directing the 3rd respondent-Tahsildar to dispose of petitioner's application dated 26.6.2019 for issuance of new pattadar passbook and communicate

the decision to petitioner. In pursuance of said directions, Tahsildar issued impugned memo dated 11.10.2019, rejecting the request of the petitioner for issuance of 'e' pattadar passbook. Hence this writ petition.

4. From a reading of the memo dated 11.10.2019, it is apparent that for the very same extent of land, one person by name Smt.Marati Chokkamma was given passbook and the said Marati Chokkamma gifted the said property to her son Marati Mallaiah and the said Marati Mallaiah has applied for pattadar passbook. On physical verification, the said Marati Mallaiah and petitioner are claiming the very same land as belonging to them. Further, a case in O.S.No.43 of 2013 is pending before the learned Junior Civil Judge, wherein petitioner is defendant.

5. Be that as it may, as against the decision of the Tahsildar, a remedy of appeal is available to the petitioner under Section 5(5) of Telangana State Record of Rights Act and without availing such remedy, the present writ petition is filed. Learned counsel for petitioner sought to contend that the decision of Tahsildar is ex-facie illegal on the ground that the claim of petitioner is in Sy.No.130/D/3/2, whereas the claim of opposite party is in Sy.No.130/D and therefore it is not the same land. It is further contended that the suit pending is not for declaration of title and it is only an injunction suit and mere pendency of injunction suit is not a ground for rejection of request of petitioner for issuing 'e' pattadar passbook.

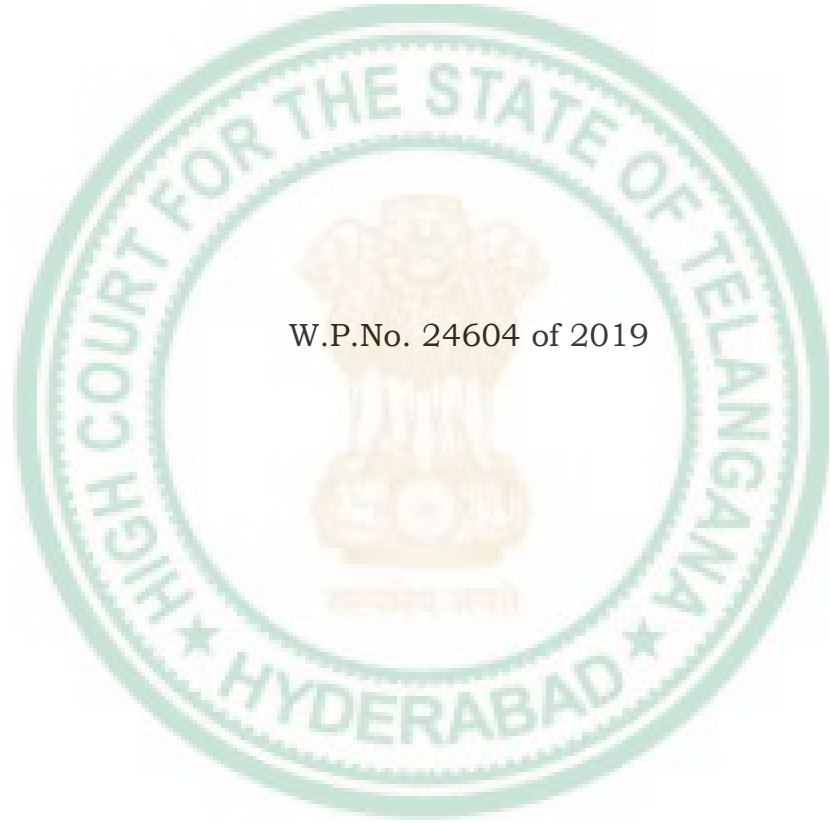
6. As noted above, rejection is not only on the ground of pendency of suit, but also on the ground that both petitioner and

Marati Mallaiah (5th respondent) are claiming the very same land and in view thereof, the request cannot be acceded to and the matter requires to be resolved by the Court. It is not in dispute that the Tahsildar is the competent authority to issue the impugned memo. If what is contended by the learned counsel is correct that the land claimed by the petitioner is different from the land claimed by 5th respondent, the petitioner can make available relevant record before the appellate authority by filing appeal and persuade him to take a decision with reference to her claim. Since there are disputed questions of fact, writ court cannot decide the same in a petition filed under Article 226 of the Constitution of India. Thus, leaving it open to the petitioner to file appeal before appellate authority or any other authority for redressal of her grievance, this writ petition is dismissed. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

Date: 11.11.2019
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P.NAVEEN RAO,J

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