* THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

+ W.P. No. **25356 of 2019**

%19.11.2019

Thummala Narasimha Reddy
S/o Late Sri Narayana Reddy Aged about 65 years Occ Retired Employee
R/o Atmakur Village Yadadri Bhongir District

....petitioner

Vs.

$ State of Telangana
Rep by its Principal Secretary Revenue Department Secretariat
Hyderabad & others

.... Respondents

!Counsel for the petitioner : Sri A.Ravinder Reddy

Counsel for the Respondents: Sri Hareesh Kumar Muchinthala,
Asst.Govt.Pleader

<Gist :

>Head Note:

? Cases referred:

IN THE HIGH COURT FOR THE STATE OF TELANGANA

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WRIT PETITION NO. 25356 of 2019

Between :

Thummala Narasimha Reddy
S/o Late Sri Narayana Reddy Aged about 65 years Occ Retired Employee R/o Atmakur Village Yadadri Bhongir District

.... Petitioner

And

State of Telangana
Rep by its Principal Secretary Revenue Department Secretariat Hyderabad & others

.... Respondents

JUDGMENT PRONOUNCED ON :19.11.2019

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

1. Whether Reporters of Local Newspapers may Be allowed to see the Judgments ? :YES

2. Whether the copies of judgment may be marked To Law Reporters/Journals : YES

3. Whether Their Ladyship/Lordship wish to See fair Copy of the Judgment ? :NO

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 25356 of 2019

Date : 19.11.2019

Between:

Thummala Narasimha Reddy
S/o Late Sri Narayana Reddy Aged about 65 years Occ Retired Employee R/o Atmakur Village Yadadri Bhongir District

Petitioner

And

State of Telangana
Rep by its Principal Secretary Revenue Department Secretariat Hyderabad & others

Respondents

The Court made the following:

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 25356 of 2019

ORAL ORDER:

Heard learned counsel for petitioner Sri A Ravinder Reddy and learned Assistant Government Pleader for Revenue Sri Hareesh Kumar Muchinthala and with their consent the writ petition is taken up for disposal at the stage of admission.

2. Petitioner made application to issue e-pass books for land to an extent of Ac.2.23 guntas, Atmakur village and mandal, Yadadri Bhongir district. As e-pass books were not issued by Tahsildar, a complaint was made to the District Collector under 'Prajavani Redressal mechanism'. The said complaint was forwarded to the Tahsildar. Tahsildar issued endorsement dated 22.7.2019 informing the petitioner that on full verification of the revenue records and on enquiry from the neighbors of the subject land, it was found that persons by name Tummala Satyanarayana Reddy, Tummala Veera Reddy and Battu Ramachandraiah are in possession of the subject land, therefore, patta books cannot be issued.

3. Learned counsel for petitioner contends that no prior notice was issued, no enquiry or physical inspection was conducted in presence of petitioner and mechanically, on his own, Tahsildar alleged to have conducted enquiry and issued the endorsement, which is illegal.

4. Learned Assistant Government Pleader points out that Rule 26 (6) of the Telangana Rights in Land and Pattadar Pass Books Rules, 1989 mandates that '*A title deed or pass book shall be given only to those persons who are in actual possession of the land*'. Thus, verification of possession is mandatory before issuing pass books. Learned Assistant

Government Pleader ably assisted in taking through various provisions of the Act and the Rules and the purpose of such enactment.

5. In terms of Rule 26 of the Rules 1989, physical possession of agricultural land is one of the pre-requisites for issuance of passbook, but basis to ascertain the possession is an important aspect. It appears, as contended by learned counsel for petitioner, no prior notice was given before conducting physical inspection, if any conducted. Even from the reading of the endorsement, it is not shown that Sri Tummala Satyanarayana Reddy, Sri Tummala Veera Reddy and Sri Battu Ramachandraiah were physically present when inspection was conducted and they claimed that they are in possession. It is not disclosed as to in what manner those persons have been found to be in possession of the subject land. This shows how the Revenue officials are dealing with landed properties of citizens. Such attitude of officials is leading to unnecessary complications, avoidable litigation and discontentment among farmers. At least now authorities should realize the seriousness in considering the issues in proper manner.

6. In the present Telangana State, The Record Of Rights In Land Regulation, 1358 Fasli enacted by the then ruler, the Nizam later known as The Andhra Pradesh (Telangana Area) Record of Rights in Land Regulation 1358 Fasli was in force for preparation and maintenance of record of rights before merger of Telangana with Andhra and formation of Andhra Pradesh State. Having found that said system was working well in Telangana Area and similar provisions were not made in rest of Andhra Pradesh, on formation of combined state of Andhra Pradesh, 'Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971' was promulgated. The said Act, underwent several amendments from time to

time. After formation of State of Telangana, the Act, 1971 is adopted and title of the Act is changed as 'Telangana Rights in Land and Pattadar Pass Books Act, 1971'.

7. The primary objective of this Act is to empower the land holder with a pass book and title deed containing particulars of the land held by him and such document can be used for enjoyment of his land for all purposes, such as mortgage, obtaining loan, granting lease, sale etc., and dispensing with requirement to go to Revenue authorities each time when he requires some activity concerning his land. It has to be produced at the time of presentation of deed of conveyance for registration. Act requires preparation of record of rights in all lands revenue village-wise and later on updation of the records as and when request is made or land updation is required in law. Detailed procedure is stipulated in the Act for preparation of the records and updation from time to time. Section 3 of the Act, 1971 requires preparation and updation of records. Section 4 of the Act, 1971 requires acquisition of rights to be intimated either by succession, survivorship, inheritance, partition, Government patta, decree of a Court or any other manner. Person who acquires right in a landed property shall intimate in writing the acquisition of such right to the Mandal Revenue Officer/Tahsildar and on such intimation, the process of considering such request should be set in motion.

8. To give effect to various provisions of the Act, the Telangana Rights in Land and Pattadar Pass Books Rules, 1989 were formulated and notified vide G.O.Ms No. 570 Revenue (D.O.A & R) dated 8.6.1989. Rules prescribe detailed procedure for preparation of records and

updation. Under the heading '**Rectification of Entries in Record of Rights**' , Rules 15 to 17 deal with the procedure.

9. Rule 15 requires an application to be made for rectification of records. On receipt of such application, as per Rule 16, Tahsildar should hold an enquiry after giving notice thereof to: (a) the person making application; (b) person referred to in the application as having right or interest or as not having such right or interest in the lands; (c) person whose name has been entered in the Record of Rights as having interest in the land; and (d) any other person known or believed to be having interest in the land. Rule 17 enables inspection of subject land. Rule 17 also provides with the power to summon persons and records. On completion of the enquiry, the Tahsildar should give his decision and if he accepts the claim should direct rectification of the records. The Rules also prescribe time line within which request can be made, processing of the request and finalization.

10. Reading of Rules read with provisions of the Act, the object is clearly discernible, whenever a person makes a request for updation/ change of entries in the revenue records, such request has to be received and process should be set in motion by following the detailed procedure prescribed in the Rules. The Tahsildar is required to conduct enquiry. In the process of conducting enquiry, he is vested with power to call any person to give evidence, require production of records, enter upon and inspect and measure or cause to be measured any land. It is thus clear from these Rules that an enquiry is mandatory with prior notice to the applicant and on other person/s who may claim to have title or interest in the said property.

11. Rule 26 reads as under:

Rule 26. Pattadar Pass Book:-

(1) With reference to Form 1-B prepared under Rule 14-A, title deeds and pass books shall be prepared taking a village as an Unit.

(2) to (5) xxxx

(6) A title deed or pass book shall be given only to those persons who are in actual possession of the land.

12. In Rule 26, procedure is prescribed on how to prepare title deeds and pass books. It mandates preparation of title deeds only in respect of pattadar and it also requires verification of possession and issuance of pass books or title deeds would arise only if the person who applies for issuance of title deeds and pass books is actually in possession. Having regard to the statutory scheme, Rule 26 (6) cannot be looked in isolation but has to be seen in the overall context of the scheme of the Act. In other words, Rules give importance to possession as condition precedent to issue pass books and title deeds. Thus, the possession being an important aspect, verification of possession is not an empty formality. Therefore, Tahsildar is required to give effect to the mandate. Per force, conducting of enquiry has to be in the presence of the person who makes an application and others who are opposing such application with prior notice and in the presence of independent persons who are no-way concerned with the inter-se dispute. Only after making such assessment of physical possession and on recording of the findings of assessment of physical possession by cogent material, the Tahsildar can come to definite conclusion about the possession and to decide whether to issue pattadar pass book or to reject the application.

13. Right to property is an invaluable right. Indian economy is primarily an agricultural economy and most of the citizens depend on agricultural lands to eke-out their living by cultivating the land. Thus, the right being an invaluable right, the Tahsildar who is entry level authority competent to deal with the applications for issuance of pattadar pass books and title deeds has to deal with such claim in a systematic manner ordained by law and in due compliance of the provisions of the Act and Rules made thereunder and has to record his findings in the concerned file so that the same will be basis for future determination of the claims.

14. Contrary to the statutory requirements and responsibilities vested in the Tahsildars, they are mechanically rejecting the applications for grant of title deeds or pattadar pass books holding that person is not in possession without recording reasons as to how such decision is arrived at and ducking under Rule 26 (6) whenever it suits them. The instant case is classic example of such lackadaisical approach by the Tahsildar resulting in avoidable litigation, frustration to the land holder and developing fissure/animosity among the land holders against the revenue authorities, as is evident from the recent developments. The decent is growing and assuming chilling proportions. Time has come for revenue establishment to shed its archaic Nizam era approach and build public confidence. If only appropriate procedure is followed and transparency is ensured, the animosity would not be there. The Court is also flooded with avoidable litigation as revenue authorities are not handling the grievances of the land holders or claims in a systematic and transparent manner leading to allegations of personal preferences, bias and monitory considerations. Time has come for the authorities to set in order the process of consideration of all issues concerning land,

complying with the statutory requirements in a systematic and transparent manner as ordained by law and in a fixed time frame. To ensure transparency, they are also required to harness technology. Once that is achieved, the judicial wing of the State can bestow more time to serious litigation.

15. Therefore, action of Tahsildar in dealing with the manner as noted above, is held to be amounting to arbitrary exercise of power and authority and he is warned to be careful in future. The endorsement dated 22.7.2019 is declared as illegal and the same is set aside. In the absence of essential details as noted above, Tahsildar could not have mechanically rejected applications for grant of pattadar pass book and title deed leading to institution of this writ petition. The Tahsildar is directed to act upon the application made by petitioner for issuance of e-passbook by following due procedure as contemplated under law and by putting him on notice. Upon conducting enquiry, if Tahsildar disagrees with the claim of the petitioner, he should assign reasons in support of his decision and communicate the same to the petitioner. The entire exercise should be completed within a period of six weeks from the date of receipt of copy of this order. Accordingly, the writ petition is allowed. Miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

DATE: 19-11-2019
TVK

Note : Mark L R Copy—Yes

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 25356 of 2019

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