

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.1944 of 2020

ORDER:

This writ petition is filed challenging the Memo vide Rc.No.B/87-20/2019, dated 25.07.2019, wherein and whereby the application of the petitioners for grant of mutation basing on the succession was rejected.

Learned counsel for the petitioner submits that neither the petitioner nor his predecessors have sold the subject lands to any third parties and that without notice to petitioner, the impugned refusal order was passed, which is in violation of principles of natural justice and also against proviso to Section 5(1) of the Telangana Rights in Land and Pattadar Pass Books Act, 1971 (for short, 'the Act of 1971'). He also submits that the provisions of the Act of 1971 have not been followed before passing the rejection order. In support of his contention, he relied on the judgment of this court in WP No.25356 of 2019, dated 19.11.2019.

Learned Assistant Government Pleader for respondents 1 to 4 submits that the petitioners are not in possession of the subject land and the same had been sold to third parties. He submits that after conducting necessary enquiry, impugned order was passed and that appeal lies against the same.

Before considering the rival contentions of both parties, it is necessary to extract Section 5(1) of the Act of 1971, which reads as follows:

“5. Amendment [and updating of Record of Rights]:

- (1) On receipt of intimation of the fact of acquisition of any right referred to in Section 4, the Mandal Revenue Officer shall determine as to whether, and if so in what manner, the record of rights may be amended in consequence therefore and shall carryout the amendment in the record of rights in accordance with such determination.

Provided that no order refusing to make an amendment in accordance with the intimation shall be passed unless the person making such intimation has been given an opportunity of making his representation in that behalf.”

A perusal of the impugned proceedings goes to show that no notice was issued before rejecting the application of the petitioner. It is the specific assertion of the petitioner that he has not sold the subject property to third parties.

In view of the same and without expressing any opinion on the merits of the case, the impugned memo dated 25.07.2019 is set aside only on the ground of violation of principles of natural justice. However, the Tahsildar-4th respondent is directed to reconsider the representation of the petitioner dated 25.11.2019, after issuing notice to the petitioner and affording an opportunity of hearing, in accordance with law.

Accordingly, this writ petition is allowed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY, J

30-01-2020
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Date: 30.01.2020

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