THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

W.P.NO.4449 OF 2020

O R D E R

The case of the petitioner is that she purchased the subject property under a simple sale deed dated 26.05.1980, and subsequently the 4th respondent – Tahsildar, following the procedure under the provisions of the A. P. Rights in Land and Pattadar Pass Books Act, 1971 validated the sale deed, and issued certificates under Forms 13-B and 13-C of the Act, and her name was also mutated in the revenue records. When the petitioner came to know that her name was recorded in the revenue records only up to 2004-05, and that from the year 2005-06, the name of unofficial respondent No.5 was recorded, and that the said respondent was also issued with certificates under Forms 13-B and 13-C of the Act, and also pattadar pass book and title deed in respect of the subject land, she filed appeal before the 3rd respondent – Revenue Divisional Officer, and 3rd respondent vide order dated 26.06.2014 in Case No.B/57/2013, allowed the appeal and cancelled the certificates issued to the unofficial respondent in Forms 13-B and 13-C. Aggrieved by the same, the unofficial respondent No.5, filed revision under Section 9 of the Telangana Rights in Land Pattadar Pass Books Act, 1971 (for short 'the Act') and the 2nd respondent, who is the revisional authority, by the impugned order in Revision Petition No.D1/1420/2014 dated 07.02.2020, set aside the order passed by the 3rd respondent dated 26.06.2014, and remanded the matter directing the 4th respondent – Tahsildar to conduct *de novo* enquiry by following due process of law and decide the case by issuing 13-B certificate afresh. Assailing the said order, the present writ petition is filed.

Sri S.Niranjan Reddy, learned Senior Counsel appearing for the petitioner, based on the averments made in the affidavit filed in support of the writ petition, submits that the petitioner purchased the subject land under unregistered sale deed dated 26.05.1980 and got the same validated by paying the requisite stamp duty and thereafter her name was also mutated in the revenue records. He submits that the unofficial respondent No.5 is claiming to have purchased the subject land under unregistered sale deed dated 20.06.1972 and subsequently the same has been validated and 13-B and 13-C certificates were issued to him vide proceedings dated 23.02.2006. He submits that as on 20.06.1972, the petitioner has not even purchased the property, therefore question of her executing sale deed on 20.06.1972, will not arise. He submits the petitioner has never sold the subject land to the unofficial respondent 5 under any simple sale deed, but the said respondent based on false and fabricated documents, got the sale deed validated and obtained certificates under Forms 13-B and 13-C of the Act. He submits that even before the alleged validation, no notice has been issued to the petitioner. He further submitted that when the petitioner made application dated 01.10.2012 to the 4th respondent – Tahsildar under the Right to Information Act, 2005, the said respondent vide memo dated 30.10.2012 stated that no orders were passed under Act in respect of the subject lands and that the name of unofficial respondent No.5 has not been entered in 1-B register or in the Transfer Register. In the light of these circumstances, petitioner filed appeal before the 3rd respondent, who, after considering the entire material on record, and after giving opportunity to both the parties, allowed the appeal vide order dated 26.06.2014, and set aside the certificates under Forms 13-B and 13-C issued to unofficial respondent No.5. Aggrieved by the same, the unofficial respondent No.5 preferred revision under Section 9 of the Act. He submits that in the meanwhile, matter was also taken before the Hon'ble Lokayukta, who called for the report from the Joint Collector, Jagitial, and the said authority submitted report stating that certificates issued to the unofficial respondent No.5 in Forms 13-B and 13-C are false and fabricated. He submitted that the 2nd respondent, without considering the above facts and circumstances of the case in proper perspective, and without application of mind, set aside the order passed by the 3rd respondent dated 26.06.2014 and remanded the matter. Learned Senior Counsel submits that the 2nd respondent in the impugned order while remanding the matter for the purpose of conducting *de novo* enquiry, indicated for issuance of 13-B certificate. In this case, the 13-B certificate issued to the unofficial respondent has been set aside by the 3rd respondent – Revenue Divisional Officer, and, therefore, if the 2nd respondent in the impugned order, while remanding the matter indicates for issuance of 13-B certificate, it tacitly indicates that the 4th respondent – Tahsildar, after *de novo* enquiry, has to issue such certificate to the 5th respondent. Therefore, mentioning of the same, is illegal, arbitrary and would influence the *de novo* enquiry.

Heard the learned Assistant Government Pleader for Revenue.

On the other hand, Sri K. Venu Madhav, learned counsel appearing for the unofficial respondent No.5 submits that the 2nd respondent – Joint Collector, considering the entire material evidence on record, set aside the order of the 3rd respondent – Revenue Divisional Officer and remanded the matter to the 4th respondent – Tahildar, and categorically directed the said respondent to follow the due procedure under law by giving fair and equal opportunity to both the parties and decide the case. He submits that indicating in the impugned order for issuance of 13-B certificate would obviously mean that the same shall be issued in accordance with law, after giving opportunity to both the parties, and hence no exception can be taken. Therefore, he seeks to dismiss the writ petition.

In this case, apart from contentions on the merits of the case, the main grievance of the writ petitioner is that while remanding the matter, the Joint Collector has indicated for issuance of 13-B certificate. The case of the petitioner is that she purchased the subject property under simple sale deed and after due procedure, the same has been validated and her name was also mutated in the revenue records. The case of the unofficial respondents is that the petitioner sold the subject land to him under simple sale deed and he got the sale deed validated and he was issued with 13-B and 13-C certificates and his name was also entered in revenue records and he was issued with pattadar pass book and title deed. The petitioner denied that she sold the subject land and that the when she sought for information from the 4th respondent – Tahsildar under the Right to Information Act, 2005, vide memo dated 30.10.2012 he informed that no orders were passed under the

Act and the name of unofficial respondent No.5 is also not entered in revenue records and in the appeal filed by the petitioner, the 3rd respondent has set aside the 13-B certificate stated to have been issued to the unofficial respondent and in the report submitted to Hon'ble Lokayukta, it is stated that no such 13-B certificate was issued to the unofficial respondents. In the light of these facts and circumstances, the case of the petitioner is that, as she is not seeking for any 13-B certificate, and such certificate is being sought only by unofficial respondent No.5, then indicating in the impugned order for issuance of 13-B certificate would influence 4th respondent.

In view of the above circumstances, I am of the considered view that, while remanding the matter, the 2nd respondent – Joint Collector ought not to have indicated for issuance of 13-B certificate, since the petitioner is not seeking for issuance of such certificate and it is only the unofficial respondent No.5, who is claiming for the said certificate. Therefore, the 2nd respondent, in the impugned order, ought to have restricted the order directing the 4th respondent to conduct *de novo* enquiry and after giving opportunity to both the parties and to pass appropriate orders in accordance with law.

In view of the same, the words occurring in the impugned order with regard to issuance of 13-B certificate afresh, are deleted, and the impugned order is accordingly modified directing the 4th respondent to conduct *de novo* enquiry, as directed by the 2nd respondent, and after giving opportunity to both the parties, shall pass appropriate orders in accordance with law.

It is made clear that this order shall not be constructed as expressing any opinion on merits, and the 4th respondent is directed to pass appropriate orders in accordance with law after due opportunity to both the parties, uninfluenced by the impugned order, or the order dated 26.06.2014 passed by the 3rd respondent, and further action in accordance with law.

Writ petition is accordingly disposed of.

Interlocutory applications pending, if any, shall stand closed. No order as to costs.

A.RAJASHEKER REDDY,J

DATE: 28—02—2020

AVS