

THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

WRIT PETITION No.28776 of 2018

ORDER:

Heard the learned counsel for the petitioners, the learned Government Pleader for Revenue for respondent Nos.1 to 4, and Sri Vedula Srivinas, the learned counsel appearing for respondent Nos.5 to 8. With their consent, the Writ Petition is disposed of at the stage of admission.

This writ petition is filed questioning the inaction on the part of respondent No.4 in conducting the *de novo* enquiry for the last 13 years, as per the order passed by respondent No.3, dated 22.02.2005, which was confirmed by respondent No.2 *vide* order dated 30.04.2009.

The case of the petitioners, in brief, is that the father of petitioner Nos.1 and 2 and petitioner No.3 are the absolute owners and possessors of the agricultural land, admeasuring Acs.11.90 cents, situated in Survey No.128 of Perkapalli Village, Bellampally Mandal, Mancherla District, having purchased the same from the father of the unofficial respondent Nos.5 to 8 through *sada bainama* on 30.05.1996 and 06.03.1972. They have made an application to respondent No.4 – the Tahsildar, Bellampally Mandal, for regularisation of the ordinary sale deed under Form X, but no orders were passed thereon. However, respondent No.4, the primary authority, without verifying the revenue records and the application made by the father of petitioner Nos.1 and 2 and petitioner No.3, granted partition in

favour of respondent Nos.5 to 8, without issuing any notice to the persons who are in possession of the subject property, and issued pattadar pass books and title deeds. Aggrieved by the same, the father of petitioner Nos.1 and 2 and petitioner No.3 filed an appeal before respondent No.3–Revenue Divisional Officer, Bellampally. After hearing the arguments, respondent No.3 has allowed the said appeal and remanded the matter to the primary authority, for conducting *de novo* enquiry, *vide* order dated 22.02.2005. The father of petitioner Nos.1 and 2 died on 26.09.2008.

Aggrieved by the order passed by respondent No.3, the unofficial respondent Nos.5 to 8 filed a revision before respondent No.2-Joint Collector, Mancherial District, and respondent No.2 has dismissed the said revision on 30.04.2009 confirming the order passed by respondent No.3.

In pursuance of the order dated 22.02.2005 passed by respondent No.3, the primary authority has issued notices to the respondents on 30.01.2010, 29.02.2010 and 12.01.2016 for conducting *de novo* enquiry. The grievance of the petitioners is that except issuing the notices, the primary authority has not taken any steps for conducting the *de novo* enquiry.

Learned counsel for the petitioners has stated that the appeal filed by the petitioners before respondent No.3 was allowed on 22.02.2005, remanding the matter to the primary authority for conducting *de novo* enquiry, and the revision filed by the unofficial respondents against the said order was

dismissed on 30.04.2009. That subsequent to the remand of the matter by respondent No.3, the primary authority except issuing notices has not taken any steps to conduct *de novo* enquiry, and therefore, seeks a direction from this Court to the primary authority to conduct *de novo* enquiry and pass orders in accordance with law.

Per contra, the learned counsel appearing for the unofficial respondents has stated that the petitioners have already approached the Civil Court for declaration of title and injunction, and therefore, as per sub-Section (2) of Section 8 of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short, the old ROR Act'), the primary authority cannot go into the disputed questions of title and they have to await the result of the suit filed by them. He has drawn the attention of this Court to sub-Section (2) of Section 8 of the old ROR Act, which reads as under:

“(2) If any person is aggrieved as to any right of which he is in possession by an entry made in any record of rights he may institute a suit against any person denying or interested to deny his title to such right for declaration of his right under Chapter-VI of the Specific Relief Act, 1963 and the entry in the record of rights shall be amended in accordance with any such declaration.”

The learned Government Pleader has stated that as on date the ROR Act is repealed and a new Act being The Telangana Rights in Land and Pattadar Pass Books Act, 2020 (in short 'ROR Act, 2020') has come into force. That the primary authority has no power to deal with the matter as per the

provisions of the old ROR Act, and if the petitioners are so advised, they can approach the District Collector ventilating their grievances under the new ROR Act, 2020.

In view of the above mentioned facts and circumstances, without going into the merits or demerits of the case, this Court is of the *prima facie* opinion that the order of respondent No.3 remanding the matter to the primary authority has become redundant, for the reason that the petitioners have already approached the Civil Court by filing a suit for declaration of title. It is needless to observe that the decision, if any, of the Civil Court in the suit filed by the petitioners would not only bind the parties to the said suit but also the Revenue authorities and they are bound to implement the same. On this ground alone, this Court is not inclined to entertain this writ petition.

The writ petition is, accordingly, dismissed. However, if the petitioners are so advised, they are free to file an application before the competent authority under the new ROR Act, 2020. On such application being filed, the competent authority shall put the parties on notice and pass appropriate orders strictly on merits and in accordance with law.

The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.ABHISHEK REDDY, J

Date : 19.02.2021
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