
(2010) 12 AP CK 0065

In the Andhra Pradesh High Court

Case No : Writ Petition No. 31687 of 2010

A. Ranga Bhashyam

APPELLANT

Vs

The State of Andhra Pradesh and Another

RESPONDENT

Date of Decision : 16-12-2010

Acts Referred:

Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 — Section 3, 4, 5, 5(1), 6A

Citation : (2011) 1 ALD 694 : (2011) 1 ALT 491

Hon'ble Judges : C.V. Nagarjuna Reddy, J

Bench : Single Bench

Advocate : V. Jagapathi, for the Appellant; Assistant Government Pleader for Revenue, for the Respondent

Judgement

C.V. Nagarjuna Reddy, J.—This writ petition is filed for a Mandamus to declare the action of Respondent No. 2 in insisting on permission from Respondent No. 1 for mutation of Petitioner's name in the revenue records in respect of Acs.2.24 cents in survey No. 230/1 of Eswarapuram Village, Puttur Mandal, Chittoor District, as illegal, arbitrary and contrary to Section 5 of the Andhra Pradesh Rights in Land and Pattadar Passbooks Act, 1971 (for short "the Act"). The Petitioner sought for a consequential direction to Respondent No. 2 to mutate his name in the revenue records in respect of the abovementioned land.

2. The averments contained in the affidavit show that the abovementioned land was initially classified as Gunta Poramboke and that on coming to know about the said classification, the Petitioner's father filed a claim petition u/s 11(a) of the Estates Abolition Act, 1948 before the Assistant Settlement Officer, Chittoor, who vide his proceedings dated 20.06.1967 granted ryotwari patta in favor of Petitioner's father. The Petitioner pleaded that the said patta has become final and no appeal or revision was filed there against. When the Executive Engineer, Panchayat Raj Department, Tirupati Division, sought to grant lease of the said property in favor of third party, the Petitioner filed O.S. No. 227 of 1986 in the

Court of the learned Principal District Munsif, Puttur. The District Collector is stated to have granted ryotwari patta in favor of Petitioner's father in pursuance of the said suit. By judgment and decree dated 31.10.1992, the said suit was decreed and permanent injunction was granted in favor of the Petitioner. The said judgment and decree was questioned in A.S. No. 31 of 1996 by the District Collector. The said appeal was dismissed by the learned Senior Civil Judge, Puttur, vide his judgment and decree dated 11.03.1999. Aggrieved by the same, the District Collector filed S.A. No. 1393 of 2003, which ended in its dismissal by judgment dated 10.04.2006 of this Court. Thereafter, the Petitioner approached Respondent No. 2, by representation dated 11.10.2010, for mutation of his name in the revenue records and grant of pattadar passbooks and title deeds in his favor. The Petitioner has pleaded that Respondent No. 2 has insisted that unless Respondent No. 1 accords permission for implementation of ryotwari patta granted by the Assistant Settlement Officer, he cannot carry out mutation of his (Petitioner's) name in the revenue records. He has further pleaded that he has made representation dated 10.11.2010 to Respondent No. 1 to instruct Respondent No. 2 to mutate his name and that the same was of no avail.

3. At the hearing, Sri V. Jagapathi, the learned Counsel for the Petitioner, submitted that u/s 5(1) of the Andhra Pradesh Rights in Land and Pattadar Passbooks Act, 1971 (for short "the Act"), Respondent No. 2 is the competent authority to entertain the claims for mutation of the names in the record of rights and u/s 6-A of the Act, he is entitled to grant pattadar passbooks and title deeds following the decision taken by him u/s 5(1) of the Act. He has placed reliance on a decision of this Court in K. Siddaiah Naidu v. District Collector, Chittoor 2003 LAP 321, wherein it has been held that the Mandal Revenue Officer-cum-Tahsildar has committed a serious error in seeking the opinion of the District Collector, who is an external agency in the decision making process under the Act and that the District Collector has committed a serious error in law in meddling with the decision making process by the MRO/Tahsildar by opining that the writ Petitioner therein was not entitled to pattadar passbook.

4. Looking to the scheme of the Act, it is only Respondent No. 2 who is the authority vested with the power to consider the request for mutation of names in the record of rights and for issuance of pattadar passbooks and title deeds. The District Collector is a functionary in the hierarchy who is vested with the revisional powers u/s 9 of the Act. Therefore, Respondent No. 2 shall act as an independent decision making authority by exercising powers consecrated in him under Sections 3 to 5 of the Act.

5. In this view of the matter, the Writ Petition is disposed of with the direction to Respondent No. 2 to consider the application of the Petitioner for mutation and grant of pattadar passbooks and title deeds without expecting any instructions or directions from the District Collector, Chittoor, within a period of six weeks from the date of receipt of a copy of this order, after notice to the Petitioner.

6. As a sequel to disposal of the writ petition, W.P.M.P. No. 40296 of 2010 filed by

the Petitioner for interim relief is disposed of as infructuous.