(1999) 09 AP CK 0107

In the Andhra Pradesh High Court

Case No : Writ Petition No. 1917 of 1997

K. Siddiah Naidu APPELLANT

Vs

District Collector and Others RESPONDENT

Date of Decision : 08-09-1999

Acts Referred:

Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 — Section 8

Citation : (1999) 5 ALT 480

Hon'ble Judges : D.S.R. Varma, J

Bench : Single Bench

Advocate : P. Srinivasa Reddy, for the Appellant; G.P. for Revenue for Respondent Nos. 1 to 4 and G. Kamalaker, for the Respondent

Final Decision : Dismissed

Judgement

D.S.R. Varma, J.—This writ petition is filed seeking issuance of a Writ of Certiorari, calling for the records from the respondents in D.Dis.B/762/97, dated 20-10-1998 of the Office of Mandal Revenue Officer, Tirupati (U) and quash the same as violative of Section 8 of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 and consequently implement the orders of the third respondent vide R.O.C No. B/762/97, dated 21-4-1998 and to make entries of Survey No. 148 /1,148/2A, 153 and 622 admeasuring Ac. 3-07 cents in Tirupati Mandal and issue a new Pattadar Pass Book and Title Deed in place of the Old Pass Book.

2. At the interlocutory stage itself both the Counsel have consented for final adjudication. Hence this Order:

The petitioner claims to be the owner and possessor of agricultural land admeasuring Ac. 3-07 cents in Survey Nos. 148/1,148/2-A, 11513 (sic. 153) and 622, situated at Tirupati Urban, Tirupati. He further claims that these lands are purchased under an agreement of sale after paying the sale consideration and he was put in physical possession in pursuance of such agreement of sale. The original vendor of the petitioner, who died subsequently, was one Sri Shankarashana Charya. Earlier, Writ Petition No.'' 5307 of 1997 was filed by the writ petitioner and this Court was pleased to pass orders on 18-3-1997. For convenience sake the said order is extracted hereunder.

"Under Section 5(a) of Andhra Pradesh Rights in Land and Pattadar Pass Books Act the Mandal Revenue Officer is the competent authority to receive application, hold enquiry and then pass appropriate orders regarding the claim of the Pattadar and issue pattadar pass book. Having regard to this provision, there shall be a direction to the petitioner to make fresh representation to the Mandal Revenue Officer, Tirupathi from (sic. for) holding enquiry into and dispose of the same in accordance with law. The representation of the petitioner dated 27-12-1996 may also be taken as part of the representation of the petitioner. The representation dated 27-12-1996 submitted by the petitioner to the Principal Secretary, Revenue Department was marked to the Collector, Chittoor District and the said record also may be taken for (sic. as) part of the enquiry".

3. Thereupon the petitioner placed the entire record before the third respondent-Mandal Revenue Officer for making an enquiry contemplated under the A.P. Record of Rights in Land and Pattadar Pass Books Act, 1971 - hereinafter called the Act. During the course of the said enquiry, the third respondent had also addressed letter dated 21-4-1998 to the Sub Registrar to fix up the value of the property for purpose of registration, on which the Joint Sub-Registrar fixed the Registration and Stamp value at Rs. 23,750/- + Rs. 1,300/-. When the petitioner offered to deposit the said amount, the Joint Sub-Registrar expressed that he has to get orders from the District Collector. While so, the petitioner received the communication dated 20-10-1998 which is impugned in this writ petition. The communication reads as follows:

"In pursuance of the directions issued in the Collector''s reference L.Dis.B4/15006/98 dated 14-9-1998 consequent on the instructions solicited in the matter, it is informed that your request for the issue of Pattadar Pass Book will be considered only after settlement of title in the competent Court of Jurisdiction in respect of S. No. 148/1,148/2,153 and 622 for an extent of 3.07 acres of Tirupathi Village and till such time your request cannot be considered."

4. The fifth respondent viz., Sri Uttaradhi Sri Vaishnav Math, Tirupati, represented by Anirudha Ramanuja Dash, Manager is impleaded as party-respondent by orders dated 3-9-1999 in W.P.M.P. No. 9439 of 1999.

5. Surprisingly, the fifth respondent has not been originally made a party. The fifth respondent through its counter submitted that the writ petition was not filed by Sri K. Siddaiah Naidu, the petitioner herein. His signature does not tally with the various other signatures found in the documents on the file of the Commissioner of Endowments, etc.

6. A close comparison with the other signatures, as pointed out by the learned Counsel appearing for the firth respondent shows that there is any amount of

difference between the disputed signature of the petitioner with other signatures found in the documents filed before the Commissioner, Endowments, but this need not be construed as an express view of the Court. However, it is not necessary to go into those aspects at this stage of matter. Those disputes may be agitated at appropriate stage before appropriate authority as and when it become relevant. The learned Counsel further contends that Sri Uttaradhi Sri Vaishnav Math, the fifth respondent herein, is the owner and the possessor of the disputed property and that the petitioner has no valid title. It is further submitted that the petitioner cannot get any order under the Act and get the sale deed registered in his name. According to the learned Counsel, the disputed lands were gifted to the Math by a devotee under a registered deed, the particulars of which have been given in the affidavit at para No. 3. After narrating about various proceedings initiated by various authorities, ultimately, the respondent No. 5 states that the petitioner has no legally enforceable right and he cannot claim title on the basis of mere agreement of sale which is disputed. The fifth respondent also disputes the possession claimed by the petitioner and submitted that the petitioner with a mala fide intention did not choose to make the fifth respondent a party to the earlier proceedings as well as in this writ petition.

7. The third respondent in his counter-affidavit states that the lands in dispute are registered in the name of the fifth respondent-Muth. He further states that pursuant to the orders of the High Court, the petitioner has filed relevant documents before the Mandal Revenue Officer seeking requisition (sic. registration) of the unregistered sale deed. The Commissioner of Land Revenue, Andhra Pradesh on 21-4-1997 called for a report with regard to the action taken in the matter. Notices have been issued to all the interested persons to prove the title over the property in question and the Manager of the fifth respondent was also served with the notice. Pursuant to which objections were also filed, and ultimately, upon the instructions of the Collector, the respondent No. 3 (sic.1) issued the impugned proceedings dated 21-4-1998 (sic. 20-10-1998) directing the petitioner to settle his title in a competent Court of law and then only apply for issuance of Pattadar Pass Book and till such time, his request cannot be considered in view of the serious dispute with regard to the title over the disputed lands. It is further stated that the petitioner ought to have approached the Endowment Department u/s 74 of the Act. The other details given in the counter-affidavit are not relevant for purpose of deciding the issue in this writ petition.

8. In view of the serious dispute with regard to title and possession between the petitioner and the fifth respondent, I am of the considered view that it is not possible nor desirable for the third respondent to pass any order other than the one which is impugned in this writ Petition.

9. It is to be noted that the petitioner has been seeking a relief with regard to change of entries in the revenue record only on the basis of the agreement of sale and that itself indicates that there is any amount of dispute about the

possession and title of the petitioner particularly in view of the matter being seriously disputed by the fifth respondent. In other words maintaining this writ petition means indirectly seeking the verdict on the disputed question of title and possession which has to be dissuaded by all means.

10. Therefore this question of title and possession is purely in the nature of question of fact which cannot be decided by an authority like the third respondent and until and unless the title of such a disputed property is decided one way or the other, necessary changes of entries in the revenue record cannot be effected by the revenue officials under the Act. Therefore, I find no illegality or irregularity in the order passed by the third respondent. Hence it is expedient for the petitioner to approach competent Civil Court in order to get the title dispute settled in his favour and then only approach the authorities under the Act for appropriate relief.

11. In view of the foregoing discussion, the writ petition is devoid of merits and the order passed by the third respondent does not warrant any interference. The writ petition therefore fails and is accordingly dismissed. No costs.