(2011) 01 AP CK 0031

In the Andhra Pradesh High Court

Case No : Writ Petition No. 928 of 2003

Smt. Khaja Bee APPELLANT

Vs

The Joint Collector and Others RESPONDENT

Date of Decision : 20-01-2011

Acts Referred:

Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 — Section 5A, 5A(1), 5A(2), 5A(3), 5A(4)
Andhra Pradesh Rights in Land and Pattadar Pass Books Rules, 1989 — Rule 22, 22(4)

Citation : (2011) 8 RCR(Civil) 1693

Hon'ble Judges : V.V.S. Rao, J

Bench : Single Bench

Advocate : Jalli Kanakaiah, for the Appellant; The Govt. Pleader for Revenue, for the Respondent

Final Decision : Dismissed

Judgement

V.V.S. Rao, J.—The Petitioner assails the proceedings of the first Respondent dated 20.12.2002 whereby and where under while canceling pattadar pass books (PP Bs) and mutation, the Petitioner was directed to get the subject land registered in her favor and then obtain PP Bs and title deed (TD).

2. The brief fact of the matter is as follows. The Petitioner allegedly purchased the land admeasuring Acs.12.08 guntas comprised in S. Nos. 47/1, 2 and 3 situated at Kamareddy village in Nizamabad District from one Mohd. Ibrahim. It is her case that the sale was under unregistered document. Therefore she filed an application u/s 5-A of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (the Ror Act) and obtained regularization orders. Pursuant thereto, the Mandal Revenue Officer (MRO) also issued PP Bs/TD besides making necessary changes of the mutation in the revenue records.

3. In March, 2002, the first Respondent cancelled PP Bs and the mutation purportedly in exercise of suo motu powers u/s 9 of the Ror Act. Feeling aggrieved, the Petitioner filed the writ petition being W.P. No. 12478 of 2002. By

an order dated 12.2.2002 this Court set aside the order of the Joint Collector and remanded the matter to conduct fresh enquiry after giving notice to the parties. In obedience thereto, the first Respondent issued notice to the Petitioner. She was represented by a Counsel. After considering the submissions made on behalf of the Petitioner, the impugned order was issued.

4. The third Respondent herein filed the counter affidavit stating and alleging as follows. There is no record in the office of the Mandal Revenue Officer, Kamareddy (MRO) evidencing the documents for regularization of sale transaction. The Petitioner claims to have obtained regularization in File No. A4/128/96-II. Such file is not traceable. The patta for subject land stands in the name of Mohd. Ibrahim. In the revenue records, the same was rounded off without indicating the file number and Petitioner''s name was incorporated. The procedure contemplated under the Ror Act and the Andhra Pradesh Rights in Land and Pattadar Pass Books Rules, 1989 (the Ror Rules) was not followed. The Petitioner failed to produce any duplicate challan during the enquiry and, therefore, the impugned order was passed by the first Respondent.

5. The Counsel for the Petitioner submits that the factor of the Petitioner purchasing the property from Mohd. Ibrahim is admitted. Therefore the Joint Collector ought to have drawn a presumption in favor of the Petitioner that the regularization proceedings were completed in accordance with law. According to him, the Petitioner''s name was mutated in the revenue records vide proceedings in File No. A4/128/96-II and if the file is not traceable in the office of the MRO, the Petitioner cannot be faulted.

6. The Respondents filed the counter affidavit. The Government Pleader for Revenue (Telangana Area) or the Assistant Government Pleader for Revenue is not present. There is no representation.

7. Section 5-A of the Ror Act contemplates regularization of unregistered sale by the MRO by declaring such alienation or transfer as valid. The procedure for dealing with the applications u/s 5-A(1) of the Ror Act is contained in Sub-sections (2) to (5) of Section 5-A and Rule 22 of the Ror Rules. As per this procedure, there are three stages which are to be necessarily followed by the MRO before "declaring an alienation or transfer as valid u/s 5-A (1)".

8. The first stage is issue of notices/notifications in Form Nos. IX, XI and XII. Notification in Form No. IX shall have to be issued for calling objections from the persons who are recorded as occupants in adangal/pahani patrika or in record of rights prepared earlier by affixing the notification in the village chavidi in the offices of the MRO, Gram Panchayat, Mandal Praja Parishad, and by tom-tom in the village. Notification in Form No. XI shall have to be issued to alienor or transferor mentioning the time and date on which the MRO proposes to conduct enquiry. Notice in Form No. XII shall have to be issued to all the persons believed to be interested in the land specifying therein, date, time and place of enquiry u/s 5-A of the Ror Act. The second stage is the issue of advisory by the MRO to Sub

Registrar after completion of the enquiry and recording a finding in favor of the applicant. In such advisory, the Sub Registrar concerned would be requested to advise the value of the property and fix up the amount to be collected towards stamp duty and registration fee. The alienee/applicant is required to deposit through challan in the treasury the amount equal to the registration fee and stamp duty within one month from the date of communication of the order passed under Rule 22(4) of the Ror Rules declaring the alienation/transfer as valid. In the third stage, alienee/ transferee will produce the amounts through challan. After that, the MRO shall issue a certificate in Form No. XIII-B as required u/s 5-A(4) of the Ror Act. Form No. XIII-B shall be accompanied by Form No. XIII-C. This contains the particulars of the land, nature of the transaction, date of the document under which the transaction took place, market value of the property as per the basic value register, the amount collected towards stamp duty and registration fee, and particulars of the challan in which the amount is remitted into the treasury.

9. As recorded by the Joint Collector in the impugned order, there were no particulars available in the file and no such file was traceable. Further, admittedly, the Counsel for the Petitioner appearing before the Joint Collector did not produce any documentary proof. If the Petitioner claims that her sale was regularized by an order issued under Rule 22(4) of the Ror Rules and she was issued Form Nos. XIII-B and XIII-C certificates, it was incumbent on her to produce these copies, which would have been conclusive evidence for declaration by the MRO u/s 5-A (1) of Ror Act read with Rule 22(4) of the Ror Rules. This evidence was not produced and, therefore, the impugned order of the Joint Collector is unexceptionable.

10. The writ petition is misconceived and is, accordingly, dismissed.