

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.1883 of 2009

ORDER:

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The petitioners feel aggrieved by an order, dated 31.12.2008, passed by the Joint Collector, Mahaboobnagar District, the second respondent herein, under Section 9 of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act'). The revision was filed by respondents 5 to 8 against an order, dated 26.04.2007, passed by the Tahsildar, Gadwal, the fourth respondent herein, at the instance of the petitioners.

One Smt.Muthyala Venkamma, the ancestor of the petitioners was recognized as protected tenant in respect of Acs.4.33 guntas of land in Survey No.783/A of Gadwal Village. Sri. Kurva Linganna, the vendor of respondents 5 to 8 was recognized as protected tenant for an extent of Acs.4.29 guntas in Survey No.783/B of that Village. It is stated that an extent of Acs.2.10 guntas from the land of Smt.Venkamma and Ac.1.27 guntas from the land of Sri Linganna was acquired for an irrigation project. In addition, Ac.0.30 guntas is said to have been acquired from Smt.Venkamma by the Municipality. After two acquisitions, the left over extent for them is about Ac.1.30 guntas and the entries in the revenue records were corrected accordingly. Alleging that Ac.1.27 guntas acquired from the share of Linganna was not deleted from Survey No.783/B and that the respondents herein are trying to interfere with their possession, the petitioners approached the fourth respondent with a request to correct the

entries. The fourth respondent issued notice to respondents 5 to 8 and passed an order, dated 26.04.2007, directing that an extent of Ac.1.27 guntas be deleted vis-à-vis Survey No.783/B. The revision preferred by respondents 5 to 8 was allowed.

The petitioners state that the fourth respondent has taken into account the fact that Ac.1.27 guntas was acquired from Survey No.783/B and there was no basis for the second respondent to interfere with the said order.

The contesting respondents filed a detailed counter-affidavit. It is stated that during her lifetime, Smt.Venkamma filed O.S.No.7 of 1993 in the Court of the Junior Civil Judge, Gadwal and after her death, the petitioners filed O.S.No.18 of 1986 in the Court of the Senior Civil Judge, Gadwal and both the suits were dismissed. It is stated that the fourth respondent committed an illegality in altering the entries in Survey No.783/B, as regards which the petitioners do not have any claim.

Heard the learned counsel for the petitioners, the learned Government Pleader for Revenue for respondents 1 to 4 and the learned counsel for respondents 5 to 8.

The fourth respondent happens to be the recording authority under the Act. He is conferred with the power either to make original entries or to alter the same, on the basis of any subsequent events. At the instance of the petitioner, the fourth respondent directed deletion of an extent of Ac.1.27 guntas from the holdings of respondents 5 to 8 in Survey No.783/B. Basically, the petitioners do not have any claim vis-à-vis the land in Survey No.783/B. Their right is only over the land in Survey No.783/A.

They can be said to have genuine grievance if only the entries in respect of Survey No.783/A needed any alteration. As long as they do not claim any interest over the land in Survey No.783/B, there was no occasion for them to seek alteration thereof.

Be that as it may, the petitioners have already filed a suit for declaration of title in respect of the land held by them. Not only it is settled principle of law, but also Section 8(2) of the Act itself recognizes that the entries in the revenue records are always subject to any adjudication by a Civil Court. The petitioners have already chosen the remedy of declaratory relief. Having failed in that effort, it was not open to them to seek alteration of entries, that too, in respect of the land over which they did not have any claim.

Hence, the writ petition is dismissed. However, it is made clear that the impugned order passed by the second respondent shall be subject to the outcome of any decree that may be passed in the suit filed by the petitioners. There shall be no order as to costs.

L.NARASIMHA

REDDY,J

Dt:27.02.2009

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