

IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 31ST DAY OF OCTOBER, 2015

BEFORE

THE HON'BLE MR. JUSTICE A.S. BOPANNA

WRIT PETITION Nos.204872-873/2015 (KLR-RES)

Between:

Gollal S/o Hanamant Talawar
Age: 68 years, Occ: Agriculture
R/o Tamba, Tq. Indi, Dist. Vijayapur

.... Petitioner

(By Sri Umesh V. Mamadapur, Advocate)

And:

1. The Deputy Commissioner
Vijayapur District, Vijayapur – 586 101
2. The Assistant Commissioner
Indi Sub-Division, Tq. Indi
Dist. Vijayapur – 586 101
3. The Tahsildar
Indi Taluka, Dist. Vijayapur – 586 101
4. Amen S/o Dastagir Farate
Age: 44 years, Occ: Agriculture
5. Matab S/o Dastagir Farate
Age: 40 years, Occ: Agriculture
Both are R/o Tamba
Tq. Indi, Dist. Vijayapur – 586 101

.... Respondents

(By Sri Shivaputra S. Udbalkar, HCGP for R1 to R3;
Sri D.P. Ambekar, Advocate for C/R4 & R5)

These Writ Petitions are filed under Articles 226 and 227 of the Constitution of India praying to issue a writ of certiorari quashing the impugned order dated 06.07.2015 passed in No.RTS/REV/45/2011-12 by respondent No.1 vide Annexure-G, etc.

These Writ Petitions coming on for Preliminary Hearing this day, the Court made the following:

O R D E R

The learned High Court Government Pleader to accept notice for respondent Nos.1 to 3 and file memo of appearance in four weeks.

Respondent Nos.4 and 5 have entered caveat.

2. Petitioner is before this Court assailing the order dated 06.07.2015 and the order dated 10.06.2011 which are impugned at Annexures-G and C respectively.

3. Petitioner claims rights in respect of the property bearing Sy.No.555/1 measuring 1 acre situated at Tamba village, Indi Taluk, Vijayapur District. Petitioner contends that the same has been purchased by

the petitioner from the predecessor of respondent Nos.4 and 5. In that regard, mutation entries in M.E.No.8179 was effected to the name of the petitioner on 24.02.1980. Respondent Nos.4 and 5 who are claiming to be aggrieved by the said mutation entries in favour of the petitioner had filed an appeal before the Assistant Commissioner under Section 136(2) of the Karnataka Land Revenue Act. The Assistant Commissioner has allowed the appeal and set aside the mutation entry. Petitioner claiming to be aggrieved by the same filed revision petition under Section 136(3) of the Karnataka Land Revenue Act before the Deputy Commissioner. The Deputy Commissioner has dismissed the revision petition. It is in that view petitioner is before this Court.

4. The learned counsel for the parties have put forth their contentions seeking to justify the manner in which they have put forth their claim in respect of the property.

5. Even if such contentions are taken into consideration, the same would relate only with regard to the revenue entries relating to the property. In that light, what is to be kept in view is that petitioner has already filed a suit in O.S.No.404/2011 claiming appropriate relief from the Civil Court relating to the property in question. Respondent Nos.4 and 5 herein are defendants to the said suit. In such a situation, all issues between the parties would be decided in the said civil suit. Therefore, at this juncture, it would be unnecessary for this Court to go into the rival contentions wherein the right to the property is claimed.

6. However, in order to protect the interest of the parties, if the order of the Assistant Commissioner has already been effected and the mutation entries have been reversed, position as exists shall be maintained. Further, a direction is issued to the third respondent to take note of the suit filed by the petitioner in O.S.No.404/2011 and make necessary entries with regard to the same to be

indicated in column No.11 of the RTC, until right of the parties is decided in the said suit and the same is brought to the notice of the third respondent in that regard. Such entry with the intention to protect the interest of the parties shall be maintained until dispute is resolved in the civil proceedings.

In terms of the above, the petitions stand disposed of.

**Sd/-
JUDGE**

NB*