

HON'BLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION No. 4932 of 2018

ORDER:

This Writ Petition has been filed for the following relief:

"....to issue writ of mandamus declaring the action of the respondent No.4 in not affixing digital signature to the Adangal wrt Sy.No.510-3 of an extent of Ac.1-38 cents at Borrampalem village, T.Narsapuram Mandal, West Godavari District as arbitrary, illegal and violative of Provisions of A.P.Pattadar Pass Book and Records of Rights Act, 1971, read with Articles 14, 21 and 300-A of the Constitution of India....."

2. The case of the petitioner, in brief, is that , the 5th respondent is her father and she was given ancestral landed property in an extent of Ac.1-38 cents in Survey No.510-3 at Borrampalem village, T.Narsapuram Mandal, West Godavari District as Pasupu Kumkuma at the time of her marriage in the year 1993 under an unregistered gift deed dated 29.05.1993 and ever since the petitioner is in possession and enjoyment of the property, her name was entered in revenue records as possessor of the said property and she was also issued Pattadar Pass Book on 12.11.1998 by the Revenue authorities. It is the further case of the petitioner that, as the 5th respondent neglected the welfare of his wife and

he started living with another woman, the petitioner filed a suit in O.S.No.98 of 2017 on the file of the learned Senior Civil Judge, Eluru for partition of the ancestral properties other than the subject matter of Pasupu Kumkuma, wherein the 5th respondent herein is arrayed as the 1st defendant. It is the further case of the petitioner that, due to the strained relations the 5th respondent along with others appears to have influenced 4th respondent-Tahsildar and thereby the 4th respondent-Tahsildar removed his signature in the digital adangal of the land given to the petitioner, though all the particulars of the subject land including the pattadar and possession column reflect the name of the petitioner. Since the digital signature of the 4th respondent in digital adangal was removed, the subject land with coconut trees is prone to theft of usufruct at the behest of the 5th respondent and the police are also not taking any action with regard to theft and illegal trespass on the ground that 4th respondent's digital signature is not there in digital adangal. The digital adangal dated 07.10.2014 with regard to the subject property bears the signature of the 4th respondent and subsequently the digital signature was removed. The provisions of A.P. Records of Rights and Pattadar Pass Book

Act are applicable to the digital revenue records. The amendments to the revenue records cannot be made without issuing notice to the person whose name is found therein. Hence, the writ petition has been filed.

3. The 4th respondent-Tahsildar filed counter-affidavit admitting the possession and enjoyment of the petitioner over the subject land, issuance of Pattadar Pass Book and Title deed in favour of the petitioner and uploading of her name in online web-site of revenue records and contended that the petitioner filed partition suit vide O.S.No.98 of 2017 on the file of the Court of the learned Senior Civil Judge, Eluru and in view of pendency of the said suit, the 4th respondent has removed the digital signature informing the petitioner as well as the 5th respondent that it would be restored after disposal of the suit. Hence, prayed to dismiss the writ petition.

4. The 4th respondent-Tahsildar filed additional counter contending that, father of the petitioner (5th respondent herein) filed a complaint before the 4th respondent-Tahsildar stating that he is the absolute owner of the land to an extent of Ac.3-37 cents covered by R.S.No.510 of Borrapalem village, he executed a gift deed bearing document No.3078

of 2016 for Ac.2-00 cents in R.S.No.510 in favour of his younger daughter Usha, who was looking after his welfare and well being, and as his younger daughter neglected his welfare, he executed a revocation deed on 25.05.2007 and no document was executed for the remaining extent of Ac.1-37 and that the entire extent of Ac.3-37 cents is in his possession and enjoyment and requested to cancel the Pattadar pass books granted in respect of Ac.3-37 cents. Pursuantly, the Tahsildar issued summons to the petitioner as well as the 5th respondent to attend his office in person or through their counsel. In response thereof, the 5th respondent attended and affirmed his claim, whereas the petitioner did not attend the enquiry. It is further contended that the petitioner filed O.S.No.101 of 2018 on the file of the learned Additional Senior Civil Judge, Eluru in respect of landed property covered by R.S.No.510 of Borramplem village and temporary injunction was granted in her favour. The petitioner's younger sister filed OS.No.240 of 2017 in respect of Ac.2-00 in R.S.No.510 and the said suits are pending. In view of pendency of suits, the then Tahsildar placed the land under dispute register by revoking the digital signature. Hence, prayed to dismiss the writ petition.

5. Heard Sri N.Vijay, learned counsel for the petitioner, learned Assistant Government for Revenue for respondents 1 to 4 and Sri V. Roopesh Kumar Reddy, learned counsel for the 5th respondent.

6. Sri N.Vijay, learned counsel for the petitioner, in elaboration would submit that, the suit filed by the petitioner for partition of the ancestral properties vide O.S.No.98 of 2017 is not in relation to the subject properties, which were gifted to the petitioner by way of Pasupu Kumkuma at the time of her marriage, and hence removal of his digital signature by the 4th respondent in web adangal on the ground that in view of pending suits the subject land was placed in dispute register, is untenable and hence prayed to allow the writ petition.

7. The learned Assistant Government Pleader for Revenue in elaboration would submit that pursuant to the complaint filed by father of the petitioner (5th respondent) stating that he has been in possession and enjoyment of the subject land and he has not gifted the property to anybody, the 4th respondent Tahsildar has issued notices to all the parties. The petitioner failed to attend the enquiry and as the material placed before him shows that there are suits pending before the Civil Court in

relation to subject property, he has removed the digital signature for the subject land informing the parties that the digital signature would be restored after disposal of the suits in O.s.No.98 of 2017 and O.S.No.240 of 2017. There is neither illegality nor procedural irregularity in the impugned orders and hence prayed to dismiss the writ petition.

8. Sri V. Roopesh Kumar Reddy, learned counsel for the 5th respondent, would submit that pursuant to the complaint filed by the 5th respondent informing the authorities that he is the absolute owner of the subject property and he has been in possession and enjoyment of the same, the authorities after issuing notice to the parties and after perusal of the material placed before them rightly removed the digital signature in the webland record and the same does not require any interference of this Court. Hence, prayed to dismiss the writ petition.

9. A perusal of the record shows that in recognition of the possession and enjoyment of the petitioner over the subject property, the revenue authorities have mutated the name of the petitioner in the revenue records and pattadar Pass Book and title deed was also issued in her favour. The petitioner filed O.S.No.98 of 2017 on the file of the

learned Senior Civil Judge, Eluru for partition of the properties wherein her father i.e. the 5th respondent herein is arrayed as 1st defendant. The copy of the plaint filed along with the additional counter of the 4th respondent shows that the said suit was filed in relation to the properties other than the schedule property. The petitioner also filed a suit in O.S.No.101 of 2018 against her father i.e. the 5th respondent for permanent injunction. Besides the above suits, sister of the petitioner by name Usha @ Usha Rani filed a suit in O.S.No.240 of 2017 on the file of the Junior Civil Judge, Eluru, West Godavari District for declaration that the revocation deed executed by the 5th respondent is void. The revenue records filed along with the counter of the 4th respondent make it clear that the name of the petitioner is shown as pattadar as well as possessor of the subject property. In the suit filed by the petitioner in O.S.No.101 of 2018 for permanent injunction in relation to the subject property, the Court below has granted temporary injunction vide its orders dated 22.06.2018 restraining the 5th respondent and his men from interfering with the peaceful possession and enjoyment of the subject property.

10. From the material available on record, it is evident that all the three suits referred to in the counter filed by the 4th respondent are filed against the 5th respondent. The subject property does not form part of the partition suit filed by the petitioner in O.S.No.98 of 2017 and also declaration suit filed by her sister in O.S.No.240 of 2017, whereas O.S.No. 101 of 2018 filed by the petitioner is for permanent injunction restraining her father from interfering with her possession in respect of the schedule property. It is relevant here to note that the 5th respondent did not file any suit seeking declaration of his rights over the subject property and the suit in O.S.No.101 of 2018 filed by the petitioner in respect of the subject property is only for permanent injunction, wherein the rights of the parties will not be decided.

11. Hence, the contention of the authorities that in view of pendency of the suit there is a dispute regarding title to the subject property is highly unreasonable and the consequential action of the Tahsildar in removing his digital signature to the digital Adangal is untenable.

12. In view of the above, the writ petition is allowed. The 4th respondent-Tahsildar is directed to affix his digital signature to the digital

Adangal with respect to the subject land in Survey No.510-3 at Borraampalem village, T.Narsapuram Mandal, West Godavari District, within a period of two (02)weeks from the date of receipt of copy of this order. There shall be no order as to costs.

As sequel thereto, miscellaneous petition, if any, pending shall stand closed. Interim orders, if any, shall stand vacated.

JUSTICE RAVI CHEEMALAPATI

31st January, 2023

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