

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

THE HON'BLE SRI JUSTICE NINALA JAYASURYA

WRIT PETITION No.19318 OF 2023

Between:-

N.Ramanjaneyulu, S/o. Late Ganganna

... Petitioner

and

The State of Andhra Pradesh, rep. by its Principal Secretary,
Revenue Department, and 3 Others ...

Respondents

Counsel for petitioner : Mr.Kochiri Raja Sekhar

Counsel for respondents: The G.P. for Revenue

ORDER:

Heard the learned counsel for the petitioner and learned Assistant Government Pleader for Revenue appearing for the respondents. With their consent, the Writ Petition is disposed of, at the stage of admission.

2. The present Writ Petition is filed challenging the Endorsement R.C.No.345/2022/B, dated 30.12.2022 issued by the 4th respondent as illegal, arbitrary etc., and for a consequential direction to the 4th respondent to mutate the petitioner's name in revenue records and issue pattadar pass

book and title deed in respect of the land being an extent of Ac.5.00 in Sy.No.243/1 situated in Penakacherla village, Garladinne Mandal, Ananthapuram District.

3. Learned counsel for the petitioner, advanced his arguments that the endorsement impugned in the Writ Petition is not sustainable in Law. He further contended that said endorsement was issued without giving any opportunity to the petitioner and some conclusions are arrived at, basing on mere presumptions only. He submits that if an opportunity was afforded to the petitioner, the relevant aspects with regard to the petitioner's request for modification would have been explained to the 4th respondent.

4. Learned counsel for the petitioner also submits that as the impugned Endorsement is in violation of the principles of natural justice, the remedy of appeal is not a bar. Accordingly, the present Writ Petition is maintainable.

5. Learned Assistant Public Prosecutor for Revenue, appearing for the respondents, placed a copy of written instructions dated 02.08.2023 received from the 4th respondent, for perusal of this Court and made his submissions.

6. At the outset, it may be noted that the impugned Endorsement was issued on 30.12.2022, pursuant to the order dated 17.08.2022 passed in W.P.No.25869 of 2022. In the said order, four (04) weeks time was granted for disposal of the petitioner's application and for the mutation, from the date of receipt of a copy of the order. As seen from the reference No.1, it appears that a copy of the said order was received by the office of the 4th respondent on 13.12.2022 and thereafter the impugned Endorsement was issued. Be that as it may be.

7. It is appropriate to mention here during the interregnum, the A.P. Rights in Land and Pattadar Pass Books Act, 1971 was amended by Act 15 of 2022 and Published vide A.P. Government Gazette on 18.10.2022. The relevant portion of the amendment for ready reference may be extracted herein under:-

“Section 5 Amendment and Updating of Record of Rights:-

(1) On receipt of intimation of the fact of acquisition of any right referred to in Section 4, otherwise than by a registered document, the Tahsildar shall determine as to whether, and if so in what manner, the record of rights may be amended in consequence thereof and shall carryout the amendment in the record of rights in accordance with such determination.

(2) In the event of the Tahsildar determining that the amendment in consequence of the acquisition of right referred to in subsection (1) above, is liable to be refused, then the Tahsildar shall transmit all the documents to the Revenue Divisional Officer with the recommendations.

(2a) The Revenue Divisional Officer, on receipt of such recommendations, shall pass an order as under, after affording an opportunity of hearing to the interested persons,

(i) Confirming the recommendations of the Tahsildar.

(ii) Disagreeing with the recommendations of the Tahsildar.

(iii) On the receipt of communication of disagreement under Section (2a)(ii), the Tahsildar shall carry out the amendment of R.O.R, as provided for under section 5(1).

Provided that the procedure for initiation and conclusion of action by the Tahsildar and Revenue Divisional Officer shall be such as may be prescribed under the Rules.

(3) In cases of acquisition of right under Section 4(1) by a registered document in accordance with the provisions under the Registration Act, 1908, the R.O.R. shall stand amended to reflected the said transaction.

(4) Any person aggrieved by any order passed under sub-sections (1), 2(a) and the amendment of R.O.R under sub-section (3), above may prefer an appeal before the District Revenue Officer within a period of thirty(30) days from the date of receipt of such order or amendment of R.O.R. the Appellate Authority shall dispose the appeal preferably not later than 6 months from the date of filing of such appeal.

(5) In all cases of amendment of Record of Rights in resurveyed villages, unless the acquisition of right is for the entire extent of the land parcel, it shall be mandatory to carry out sub division of the Land parcel in the manner prescribed.

(6) The District Collector, *suo motu* or otherwise, shall be competent to initiate proceedings under criminal law in case any application for amendment of R.O.R under this Act is made fraudulently, or on the basis of multiple registrations by the same executant of the same land parcel.”

8. In the light of the above amendment, since the 4th respondent has straight away rejected the application for mutation, the impugned Endorsement is liable to be set aside for want of power or authority.

9. Accordingly, the Writ Petition is allowed and the impugned endorsement dated 30.12.2022 issued by the 4th respondent is set aside. Further, there shall be a direction to the 4th respondent to take necessary action afresh on the petitioner's application dated 13.10.2020 by receiving the application, if necessary, strictly in accordance with the provisions of Section 5 of the A.P. Rights in Land and Pattadar Pass Books Act (as amended by Act 15 of 2022) and the relevant Rules, as expeditiously as possible, at any rate, within a period of four (4) weeks from the date of receipt of copy of this order. No order as to costs.

As a sequel, miscellaneous applications pending, if any, shall also stand closed.

NINALA JAYASURYA, J

Date: 02.08.2023
Pnr

THE HONOURABLESRI NINALA JAYASURYA

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