

Nadiminti Varalakshmi and Another Vs The State of Andhra Pradesh

Court: Andhra Pradesh High Court

Date of Decision: Sept. 2, 2013

Citation: (2014) 1 ALD 677 : (2013) 6 ALT 160 : (2013) ALT(Rev) 438

Hon'ble Judges: C.V. Nagarjuna Reddy, J

Bench: Single Bench

Advocate: Krishna Kishore for Sri N. Siva Reddy, for the Appellant; A.K. Kishore Reddy, Counsel for Respondent Nos. 5 and 6, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

C.V. Nagarjuna Reddy, J.

This Writ Petition is filed for certiorari to quash order in D. Dis. No. D9/1314/2010, dated 2-1-2012, of

respondent No. 2 confirming the order in Ref. C.785/2008, dated 19-10-2009, of respondent No. 3. The husband of petitioner No. 1 and

respondent No. 6 are brothers. Respondent No. 5 claims to be the wife of respondent No. 6. During the lifetime of petitioner No. 1's husband, he

was granted pattadar passbook and title deed in respect of Ac. 2-75 cents of land in Sy. No. 20/1 of Yeleswaram village, Prathipadu Mandal,

East Godavari District. In the year 1998, the husband of petitioner No. 1 died. On petitioner No. 1 approaching respondent No. 4, the latter has

granted pattadar passbook and title deed in favour of petitioner No. 1 in the year 2005 in respect of the said land. Respondent No. 5 approached

respondent No. 4 with an application to issue pattadar passbook and title deed after mutation based on a registered gift deed executed by

respondent No. 6 in her favour. This application was rejected by respondent No. 4 by his order dated 24-3-2008. Feeling aggrieved by the said

rejection order, respondent No. 5 filed an appeal before respondent No. 3. By order dated 19-10-2009, respondent No. 3 allowed the same and

set-aside the pattadar passbook and title deed issued to the father-in-law of petitioner No. 1 by name Nadiminti Nookaraju and her husband

Nadiminti Ravindranath. The revision petition filed by the petitioners against the said order was dismissed by respondent No. 2. Questioning both

these orders, the petitioners filed this Writ Petition.

2. I have heard Sri Krishna Kishore learned counsel representing Sri N. Siva Reddy, learned counsel for the petitioners, learned Assistant

Government Pleader for Revenue appearing for respondent Nos. 1 to 4 and Sri A.K. Kishore Reddy, learned counsel representing respondent

Nos. 5 and 6.

3. In his proceedings dated 19-10-2009, respondent No. 3 opined that there are claims and counter-claims with regard to the property in question

and that the cases of such nature raising civil disputes cannot be resolved by the Revenue functionaries and the parties were accordingly directed to

approach the civil court of competent jurisdiction for getting their rights declared. Having so held, surprisingly, respondent No. 3 had set-aside the

pattadar passbook and title deed issued in favour of the husband and the father-in-law of petitioner No. 1. Interestingly, respondent No. 3 has not

set-aside the pattadar passbook and title deed issued to petitioner No. 1 in the year 2005 in respect of the subject property.

4. In my opinion, respondent No. 3 has made a thoroughly incorrect approach. Having rightly come to the conclusion that the nature of the

disputes raised by respondent No. 5 cannot be decided by the Revenue functionaries and having directed the parties to approach the civil court for

adjudication of their rights, he is denuded of the jurisdiction to give further direction as to the record of rights. u/s 8(2) of the A.P. Rights in Land

and Pattadar Passbooks Act, 1971 (for short "the Act"), a person is entitled to seek declaration of his rights if he is aggrieved by any entry made in

the record of rights in respect of the property in his possession. If he succeeds in the suit, he is entitled to get his name entered in the record of

rights through appropriate amendment in pursuance of such decree. As respondent No. 5 has questioned the entry in the record of rights made in

favour of petitioner No. 1, it is he who has to file a civil suit. Till she succeeds in the suit and gets a declaration of her right over the property in

question, the entries already made in the record of rights, following which the pattadar passbook and title deed have been issued to petitioner No.

1, cannot be altered. In this view of the matter, that part of the order of respondent No. 3, as confirmed by respondent No. 2, wherein the former

has interfered with the pattadar passbook and title deed issued in favour of the husband and the father-in-law of petitioner No. 1, is set-aside,

leaving respondent No. 5 free to avail the remedy of a civil suit and approach respondent No. 4 u/s 8(2) of the Act in the event of her success in

such civil suit.

5. The Writ Petition is accordingly allowed to the extent indicated above. As a sequel, WVMP Nos. 1338 and 2646 of 2013 filed for vacating the

interim order dated 24-2-2012 in WPMP No. 5967/2012 are disposed of as infructuous.