

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

W.P. No. 6889 of 2019

Between:

Smt Amina Begum

... Petitioner

And

The State of Telangana and others

... Respondents

JUDGMENT PRONOUNCED ON: 16.08.2023

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

1. Whether Reporters of Local newspapers : yes
may be allowed to see the Judgment?
2. Whether the copies of judgment may be : yes
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : yes
see the fair copy of the Judgment?

SUREPALLI NANDA, J

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

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< Gist:

> Head Note:

! Counsel for the Petitioner : Mr T.Balaswami

^Standing Counsel for Respondents: G.P. for Revenue

**? Cases Referred:
(2017) 10 SCR 569**

HON'BLE MRS JUSTICE SUREPALLI NANDA

W.P. No. 6889 of 2019

ORDER:

Heard the learned counsel for the Petitioner and the learned Government Pleader for Revenue appearing on behalf of the Respondents.

2. This Writ Petition is filed praying to issue a Writ of Mandamus declaring the action of the respondents in not issuing the Pattadar Pass Book-cum-Title Deed after LRUP which was undertaken by the Government of Telangana on the ground of not obtaining Aadhar Number by the petitioner for agriculture land to an extent of Ac.0.16 Gts in Sy.No. 12, to an extent of Ac.1.05 Gts in Sy.No.13 and also an extent of Ac.4.21 Gts in Sy.No.15; all the moieties of properties put together will come to a total extent of Ac.6.02 Gts situated in Kothrepally Village, Vikarabad Mandal and District as illegal, arbitrary, capricious besides violation of Art.300-A of the Constitution of India and also violation of the Judgment of Apex Court rendered in W.P. No.(Civil) 494 of 2012 dated 26.9.2018 and consequently direct the 5th respondent to

issue the Pattadar Pass Book-cum-Title Deed, otherwise the petitioner will suffer serious hardship.

3. The case of the Petitioner, in brief, is as follows:

a) The petitioner is the absolute owner and pattadar of the agriculture land to an extent of Ac.0.16 Gts in Sy.No. 12, an extent of Ac. 1.05 Gts in Sy.No.13 and also an extent of Ac.4.21 Gts in Sy.No. 15; all the mentioned moieties of properties put together will come to a total extent of Ac. 6.02Gts which are situated in Kothrepally Village, Vikarabad Mandal and District (herein after referred to as Subject Property). All the above lands are private patta lands and the petitioner is in possession of the said properties since 2003.

b) The petitioner acquired the Subject Property in the year 2003 by way of registered gift deed vide document No.1663/2003 and two sale deeds Vide documents Nos. 1493/2003, 1494/2003 got executed on 03.07.2003 by the petitioner herein after paying due consideration and the same was registered in SRO, Vikarabad. Accordingly, the Pattadar Pass Books have been issued and entries are made in the name of the petitioner.

c) As the matter stood thus the Government of Telangana introduced a scheme by name Land Records Updation Program (LRUP). Thus, the petitioner's agriculture land was also scrutinized under the LRUP and the proceedings have been issued as per the procedure laid down in the RoR Act, vide proceedings in No. B/1523/2018 dated 14.09.18.

d) By virtue of the above said proceedings, the Government have re-mutated the entries of the petitioner into revenue records as owner and possessor of the above mentioned agriculture lands. In spite of mutation of the petitioner's name in all the revenue records pertaining to the above said agriculture lands, the proposed Pattadar Pass Book-cum-Title Deed has not been issued on 09.11.2018, the petitioner made a representation to issue pattadar passbook-cum-title deed under the LRUP.

e) Aggrieved by the action of the respondents and non-response to the representations made by the petitioner, on 24.12.18 an application was made under RTI through the petitioner's authorized person asking the reasons for not issuing Pattadar Pass Book-cum-Title Deed.

f) The 5th Respondent in response to the RTI application dated 24.12.18, issued a Memo dated 01.03.19 vide proceedings No. RTI/06/2018-19, stating that the Pattadar Pass Book-cum-Title Deed has not been issued in favour of the petitioner for the reason that she has not submitted her Aadhar Number. However, there was no official circular or executive instruction issued by the Government making Aadhar Number mandatory for issuing the Pattadar Passbook Cum Title deed.

g) Without there being any statutory sanction, denial of statutory right of having PPB Cum TD is arbitrary and unconstitutional. Alongside, the petitioner could not obtain any Aadhar Number as she is suffering from diabetic neuropathy, as a result of which her hand finger prints and the iris impressions cannot be obtained. Due to the physical inability and medical reasons, it is impossible to obtain Aadhar Card in favour of the petitioner and for the reason of non-obtaining the Aadhar Card, the authorities cannot deny the statutory benefits for which the petitioner is entitled.

h) Learned counsel for petitioner places reliance on judgment of the Supreme Court in W.P. (Civil) No. 494 of 2012 dated 26.09.2018. In view of the above factum, denial of issuance of Pattadar Pass Book-cum-Title Deed for which the petitioner is entitled under statute is not reasonable and also illegal, arbitrary besides violation of Art.300-A of Constitution of India. Hence, this Writ Petition.

4. Counter Affidavit filed by Respondent No. 5, in brief, is as under:

a) The Writ Petitioner has purchased the land to an extent of Ac. 0.16 gts in the Sy No. 12 of Kotrepally Village from Afzal Khan vide Registered sale deed No. 1493/2003 dated 08.08.2003. The land bearing Sy No. 13 / Parts to an extent Ac. 1.05 gts from 1.G. Chandraiah 2.G Parmaiah, 3.G Ramulu, 4.G Lalaiah & 5. G Buchaiah vide 41494/2003 dated 08.08.2003 and land to an extent Ac.4.21 gts in Sy.No. 15/Parts from 1. Mohmmmed Ibrahim 2. Mohammed Haneef and 3.Mohmmmed Khaja Mohinoddin vide Registered Sale deed No. 1663/2003 dated 06.09.2003 (Link Document No. 557/2003 dated: 26.03.2003).

b) Subsequently, the then 5th Respondent has issued Proceedings No. B/1372/2003 in March, 2003 and issued Old Pattedar Pass Books and Title deed vide giving Patta No. 374, but has not implemented the same in Revenue Records. Thus, taking advantage of this, after death of G Chandraiah (old Pattedar), the land bearing Sy No. 13U to an extent Ac 0.09 gts was succeeded to his legal representative namely G.Raviraj S/o Chandraiah and Sy No. 13/6 to an extent Ac.0.09 gts wrongly recorded in the name of Water Body/Cheruvu instead of G Buchaiah.

c) Further, the land baring Sy No. 12 to an extent Ac.0. 16 gts was transferred in favour of M.D. Majeed Hussian but the details of the same are not found, remaining Sy No. 15 to an extent Ac.4.21 gts is recorded in the name of Sellers name in the Grama Sabha during the LRUP, i.e., Land Record Updation Programme.

d) As consequence to the LRUP, the then 5th Respondent has issued Proceedings vide No. B/1523/2018 dated 14.09.2018 in favor of Writ Petitioner without verifying the Old Records but the same has not been implemented.

e) After the observation of all documents and records, the petitioner did not submit Aadhar card copy for E.PPB during LRUP for the total land admeasuring Ac.6.02 gts. i.e. subject property.

f) The writ petitioner while applying for mutation in Dharani Portal has also applied for mutation to an extent Ac. 0-16 gts in Sy.No. 12 of "Kompally" Village instead of "Kothrepally" Village, Vikarabad Mandal vide challan No: 2200001471. The grievance has been rejected. Hence, the Writ Petition is without merits and is liable to be dismissed.

PERUSED THE RECORD :

5. The relevant portion of the counter affidavit reads as under :

"It is submitted that, the Writ petitioner has Purchased the land to an extent Ac.0.16 gts in Sy No 12 of Kothrepally Village from Afzal Khan vide Registered sale deed No. 1493/2003 dated: 08.08.2003. and land bearing Sy No.13/Parts to an extent Ac.1.05 gts from 1.G.Chandraiah 2.G Parmaiah, 3.G Ramulu, 4.G Lalaiah & 5. G Buchaiah vide 41494/2003 dated: 08.08.2003 and land to an extent Ac. 4.21 gts in Sy.No. 15/Parts from 1. Mohmmmed Ibrahim 2. Mohammed Haneef and 3.Mohmmmed Khaja Mohinoddin vide Registered Sale

deed No. 1663/2003 dated: 06.09.2003 (Link Document No. 557/2003 dated:26.03.2003), and the then Tahsildar.. Vikarabad has issued Procg No. B/1372/2003 dated: 0303 and issued Old Pattedar Pass Books and Title deed vide giving Patta No.374, but not implemented in Revenue Records, thus, taking advantage of this, after death of Chandraiah (old Pattedar), the land bearing Sy No 13U to an extent Ac 0.09 gts succeeded to his LR namely Sri G Raviraj S/o Chandrajah, and Sy No. 13/6 to an extent Ac.0.09 gts wrongly recorded in the name of Water Body/Cheruvu instead of G Buchaiah. Further, the land baring Sy No. 12 to an extent Ac.0.16 gts was transferred in favour of M.D. Majeed Hussian. The details are not found. Remaining Sy No. 15 to an extent of Ac.4.21 gts is recorded in the name of Sellers name in the Grama sabha during the LRUP, i.e., Land Record Updation Programme.

It is submitted that, after observation of the all documents and records, the writ petitioner did not submit Aadhar Card Copy for e-PPB during LRUP for Sy No 12 to an extent Ac.0.16 gts, Sy.No. 13/part to an extent Ac. 1-05 and Sy.No. 15/Part to an extent Ac. 4-21 gts total admeasuring Ac.6-02 gts situated at Kothrepally Village, Vikarabad Mandal. As per New Dharani RO.R.Act 2020, the applicant applied for Mutation in Dharani portal in NRI Module, i.e., NRI Means non residential Indians who have agriculture

lands and that lands have to be updated in revenue records (Mutation) through online dharani portal. The pattedar has to open citizen login in dharani portal and open NRI Module and upload their relevant documents like PASSPORT, Registered Documents of land and their personal mobile Number which can generate OTP during the process for e-Pass Book as per rules while uploading passport and relevant supporting documents for Sy No 12 to an extent of Ac.0.16 gts, Sy.No. 13/part to an extent of Ac. 1-05 and Sy.No. 15/Parts to an extent Ac. 4-21 gts.

Total admeasuring Ac.6-02 gts situated at Kothrepally Village, Vikarabad Mandal. In this module the writ petitioner has applied for mutation to an extent of Ac. 0-16 gts in Sy.No. 12 of Kompally Village instead of kothrepally Village, Vikarabad Mandal vide challan No:2200001471 Hence her grievance has been rejected.

6. The relevant portion of Reply Affidavit filed by the Petitioner, in particular, paras 11 to 20, read as under:

"11. I submit that the 2nd respondent issued Circular No.1 vide Ref. No. CMRO/342/2017, Dt. 09-09-2017 through which Guidelines were issued for the Purification & Updation of Land Records and those are to be followed by the Districts.

12. I submit that Para 5 of Circular No.1, Ref.No.CMRO/342/2017, Dt. 09- 09-2017, issued by

Office of Chief Commissioner of Land Administration clearly states under the caption "Desk Verification" emphasizing the need for desk verification of the records and divided the work into four (4) parts. Part-II: Corrections in details of Pattadars (depending on the case either the correction may be carried out at desk level itself or may be listed for verifying and correcting on the field.

- i. Listing of dead Pattadars
- ii. Mutation completed off line but not carried out in the Pahani.
- iii. Pending Mutations.
- iv. Clerical errors.
- v. Missing Pattadar details in the online land records database.

13. I submit that though the mutation proceedings were issued in favour of the Petitioner and subsequently, Old Pattadar Passbook and Title Deed were also issued vide Patta No. 374, said proceedings were not implemented in revenue records as reiterated by the 5th respondent.

14. I submit that the petitioner has submitted several representations to the 2nd respondent and requested them to part with mandatory linking of Aadhar Number as petitioner's biometric data could not be captured. In this regard, petitioner has submitted official communication exchanged with UIDAI (Aadhar) authorities for the kind perusal of this Hon'ble Court through filing of Additional Running Index.

15. I submit that at the time of filing of the present Writ Petition, NRI Module was not there in Dharani Portal and it is also illogical and unreasonable on part of the 5th respondent for asking the petitioner to apply for mutation again in Dharani Portal NRI Module.

16. It is to submit that as the earlier Mutation Proceedings are legally valid and Old Pattadar Passbook and title Deed are not cancelled, respondents should have issued the petitioner, new Pattadar Passbook cum Title Deed on par with all other Pattadars and such glaring violation attracts violation of Article 14 and 300-A of Constitution of India.

17. It is to submit that the Survey Numbers against which land is possessed by the petitioner are not being displayed in Dharani Portal NRI Module as such process flow prints were filed along with the Additional Running Index vide WPUSR 100059 of 2022 in WP No. 6889 of 2019. There are serious technical glitches in the Dharani Portal and petitioner could not process for issuance of Pattadar Passbook even after paying the requisite fee.

18. It is to submit that the petitioner has also submitted her representations to the 3rd respondent and 5th respondent on 21.10.2022 and specifically brought to their notice about technical glitches in the Dharani Portal and requested them to address her grievance. But, 5th respondent simply filed counter in the present Writ Petition.

19. I submit that the 3rd respondent also kept silent on mandatory linking of Aadhar with Pattadar Passbook despite being ordered by the Telangana State Information Commission to furnish rules and regulations issued in respect of mandatory linking of Aadhar with Pattadar Passbook.

20. I submit that the Apex Court in its judgment in W.P. (Civil) No. 494 of 2012 dated 26.09.2018 categorically reiterated that the citizen of India shall not be deprived of his statutory benefits merely on ground of not having Aadhar Card. The petitioner not obtaining the Aadhar Card is neither willful nor wanton except for the extreme and rare medical conditions, the petitioner is facing as stated supra. In view of the above factum, denial of issuance of Pattadar Pass Book-cum-Title Deed for which the petitioner is entitled under statute is not reasonable and also illegal, arbitrary besides violation of Art.300-A of Constitution of India.

DISCUSSION AND CONCLUSION:

DISCUSSION

7. In the present case the Petitioner is represented by her GPA holder i.e., Abdulla Ali Omar Bin Mahfoodh, H.No.22-4-543/1, Alijakotla, Etebar Chowk, Hyderabad

and the said GPA holder is none other than the Petitioner's husband.

8. It is the specific case of the Petitioner that the Petitioner is the absolute owner and pattadar of the agriculture land to an extent of Ac.0.16 gts., in Sy.No.12, an extent of Ac.1.05 gts., in Sy.No.13 and also an extent of Ac.4.21 gts., in Sy.No.15 to a total extent of Ac.6.02 gts., which are situated in Kothrepally Village, Vikarabad Mandal and District and that the subject lands are private patta lands and the Petitioner is in possession and enjoyment of the subject properties since 2003. It is further the case of the Petitioner that the Petitioner acquired the above properties from the Petitioner's vendors in the year 2003 by way of Registered Gift Deed vide Doc.No.1663/2003 and two Sale Deeds vide Doc.Nos.1493/ 2003, 1494/2003, got executed on 03.07.2003 by Petitioner after receiving due consideration and the same was registered in SRO, Vikarabad and the Revenue authorities and in pursuance to Petitioner's request to mutate Petitioner's

name in the concerned pahanies as purchaser of the subject lands and to issue pattadar passbooks. Accordingly, the petitioner has issued the pattadar passbooks and entries were also made in Petitioner's name in the concerned Revenue Records and ever since the Petitioner acquired the subject lands the Petitioner and her husband had been in peaceful possession of the subject lands without any disturbance from third parties. The Government of Telangana introduced a scheme by name Land Records Updation programme with an objective to keep the revenue records in a transparent manner.

9. It is further the case of the Petitioner that though the Petitioner's land was also scrutinized under the LRUP and the proceedings had been issued as per the procedure laid down in the ROR Act, vide Proceedings in No.B/1523/2018, dt. 14.09.2018 and by virtue of the said proceedings, the Government had remutated the entries of the Petitioner into revenue records as owner and possessor of the subject lands and the Petitioner made a representation on 09.11.2018 to issue pattadar

passbook cum title deed under the LRUP, but however, when the same was not issued to the Petitioner, the Petitioner made an application under RTI Act, through her authorized person on 24.12.2018 asking the reasons for not issuing the pattadar passbook and title deed and the 5th Respondent in response to the RIT Application dated 24.12.2018 issued a Memo dated 01.03.2019 vide Proc.No.RTI/06/2018-19 in which it was stated that the pattadar passbook cum title deed has not been issued in favour of the Petitioner on an untenable reason that the Petitioner has not submitted her Aadhar Number.

10. A bare perusal of the counter affidavit filed by the 5th Respondent indicates that the only reason for not considering the Petitioner's representation for issuance of pattadar passbook cum title deed is that the Petitioner has not submitted her Aadhar Number. It is further the specific case of the Petitioner that the Petitioner could not obtain any Aadhar number since the petitioner is suffering from Diabetic Neuropathy as a result of which her hand finger prints and the iris

impressions cannot be obtained, and due to the said physical inability and medical reasons, the Petitioner could not secure the Aadhar card.

11. A bare perusal of reply affidavit filed by the Petitioner, paras 11 to 20 clearly indicate that the Petitioner was directed to make online application under the module of "NRI Portal in Dharani Site" along with material documents and inspite of Petitioner's efforts in view of certain technical issues the Survey numbers against which land is possessed by the Petitioner are not being displayed in Dharani Portal NRI module.

12. A bare perusal of the judgement of the Apex Court reported in (2017) 10 SCR 569 in Justice K.S. Kuppu Swamy (Retd.) and Another vs. Union of India & Others, dt. 24.08.2017 categorically reiterated that a citizen of India shall not be deprived of his statutory benefits merely on ground of not having Aadhar Card. It is observed in the said judgment as under :

In the words of Lord Action,

“the sacred rights of mankind are not to be rummaged for among old parchments of musty records. They are written as with a sunbeam, in the whole volume of human nature, by the hand of divinity itself, and can never be obscured by mortal power”.

13. This Court opines that the Petitioner cannot be denied the relief prayed for in the present Writ Petition on the ground that the Petitioner does not have the Aadhar card. Taking into consideration the above said facts and circumstances, the health condition of the Petitioner, and the specific averments made by the Petitioner in the reply affidavit filed by the Petitioner in particular paras 11 to 20 (referred to and extracted above), and the view taken by the Apex Court in its judgment in Justice K.S. Putta Swamy (Retd.) & Another vs. Union of India and others reported in (2017) 10 SCR 569 passed in W.P.(Civil) No.494/2012, dt. 24.08.2017, whereunder the Hon’ble Apex Court categorically reiterated that the citizen of India shall not be deprived of his statutory benefits merely on the ground of not having Aadhar card, the Writ Petition is

allowed and the 5th Respondent is directed to reconsider the Petitioner's request for issuance of pattadar passbook cum title deed for agriculture land to an extent of Ac.0.16 gts., in Sy.No.12, an extent of Ac.1.05 gts., in Sy.No.13 and also an extent of Ac.4.21 gts., in Sy.No.15 to a total extent of Ac.6.02 gts., which are situated in Kothrepally Village, Vikarabad Mandal and District in favour of the Petitioner in accordance to law without insisting the Petitioner to submit Petitioner's Aadhar card or its details, within a period of 2 weeks from the date of receipt of the copy of the order taking into consideration the view taken by the Apex Court in its Judgment in Justice K.S. Putta Swamy (Retd.) & Another vs. Union of India and others reported in (2017) 10 SCR 569 passed in W.P.(Civil) No.494/2012, dt. 24.08.2017, where under the Hon'ble Apex Court categorically reiterated that the citizen of India shall not be deprived of his statutory benefits merely on the ground of not having Aadhar card and pass appropriate orders for issuance of pattadar passbook cum title deed to the Petitioner herein in

respect of the subject land. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

SUREPALLI NANDA, J

Date: 16.08.2023

**Note: L.R.Copy to be marked.
b/o
kvrn**