

*** THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE N.V. SHRAVAN KUMAR**

+ WRIT APPEAL No.142 of 2009

% Dated 13-10-2023

Between:

K.Jaipal Reddy S/o.Ramachandra Reddy
...Appellant/Respondent No.3

and

\$ The Joint Collector,
Ranga Reddy District
Lakdikapool, Hyderabad and others

....Respondents

! Counsel for the Appellant : Mr. B.Venkateshwar Rao
for M.V. Durga Prasad
^ Counsel for the respondents : Mr. Allam Ramesh for G.P.
for Revenue for R1 & R2
Mr. V.Rama Krishna Reddy
for R4 to 9, 11 and 12.
< GIST : ---
>HEAD NOTE : ---
? Cases referred: :

1. 2005 (4) ALD 105 (DB)
2. (2015) 3 SCC 695

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE N.V. SHRAVAN KUMAR**

WRIT APPEAL No.142 of 2009

JUDGMENT: *(Per the Hon'ble Sri Justice N.V. Shraavan Kumar)*

Heard the learned counsel Mr. B.Venkateshwarlu appearing for the appellants, learned Government Pleader Mr. Allam Ramesh for the official respondents and the learned counsel Mr.V.Ramakrishna Reddy appearing for the unofficial respondents and perused the material made available on record.

2. The appellant herein is the 3rd respondent in the W.P. No.23945 of 2000. The respondents No.1 and 2 herein are the respondents No.1 and 2 in the W.P. No.23945 of 2000. The respondent No.3 herein is the respondent No.4 in the W.P. No.23945 of 2000. The respondents No.4 to 9 herein are the writ petitioners in the W.P. No.23945 of 2000. The respondents No.10 to 12 are brought on record as legal representatives of the deceased respondent No.5 as per Court order dated 01.02.2023 vide I.A. No.1 of 2022 in W.A. No.142 of 2009.

3. This intra Court appeal has been preferred by the appellant, who is the respondent No.3 in the writ petition, assailing the order dated 26.12.2008 passed in W.P. No.23945 of 2000 by the learned Single Judge.

4. For the sake of convenience, the parties hereinafter would be referred as they were arrayed in the writ petition.

5. The case of the writ petitioners, in nutshell, is that the writ petitioners and the respondents No.3 and 4 share a common lineage. According to them, Kommidi Kanna Reddy and his brothers Kommidi Venkat Reddy, Kommidi Laxma Reddy, Kommidi Tirumal Reddy and Kommidi Ramachandra Reddy had several ancestral properties. Kommidi Ramachandra Reddy had three sons, Narsimha Reddy, Jagga Reddy and Narayan Reddy. Jaipal Reddy, respondent 3, is the grandson of Sri Jagga Reddy through his son Ramachandra Reddy. The writ petitioners on the other hand are the descendents of the other brother Laxma Reddy. Laxma Reddy had one son Ram Reddy. Ram Reddy had two wives and the sons of one wife were Siddha Reddy and Gopal Reddy. Writ petitioners No.1 to 4 are the sons of Gopal Reddy, while the writ petitioners No.5 and 6 and respondent No.4 are the sons of Siddha Reddy.

CONTENTIONS OF THE PETITIONERS:

6. According to the writ petitioners, there was a partition in the family whereby the subject ancestral lands admeasuring Acs.23.07 guntas at Kondapur Village were retained by two sections of the family, namely Jagga Reddy who had 50% share and Siddha Reddy and Gopal Reddy, who jointly had 50% share. After the death of their predecessors-in-title, the writ petitioners lay a claim to 50% share with respondent No.4 in these lands and would submit that the

remaining 50% fell to the share of respondent No.3, claiming through his grandfather Jagga Reddy.

7. The writ petitioners would submit that the names of Gopal Reddy, Siddha Reddy and Jagga Reddy were entered in the khasra pahani of 1954-55 under the ownership column and that the entries found under the column 'pattadar' in the revenue records continued to show the names of Gopal Reddy and Siddha Reddy also.

8. While so, it is stated that respondent No.3 approached the Revenue Authorities in 1988 as he intended to sell away Ac.7-22 guntas out of his half share in the land admeasuring Ac.15-04 guntas in Sy.No.244 in Kondapur Village which formed part of the larger extent of Ac.23-07 guntas. When the other half sharers, Gopal Reddy and Siddha Reddy, questioned the same, respondent No.3 challenged the correctness of the entries in the khasra pahani of 1954-55 by filing an appeal under Section 15(2) of the Andhra Pradesh (Telangana Area) Record of Rights in Land Regulation of 1358 Fasli (for short, 'Regulation of 1358-F') before the District Revenue Officer, Ranga Reddy District. Thereupon, Gopal Reddy filed a partition suit, O.S.No.348 of 1989 on the file of the Principal Subordinate Judge, Ranga Reddy, against respondent No.3 and others seeking partition of the land at Kondapur admeasuring Acs.23-07 guntas. The said Gopal Reddy filed a counter bringing this aspect to the notice of the District Revenue Officer who dismissed the appeal filed by respondent No.3 by his order dated 26.10.1989, recording that the parties had

approached the civil Court for establishing their rights. It is the writ petitioners' case that after the dismissal of the appeal before the District Revenue Officer there was a compromise between the parties and the G.P.A. Holder of respondent No.3 who submitted a 'no objection form' stating to the effect that half of land in Sy.No.244 of Kondapur Village was owned by Gopal Reddy and Siddha Reddy. In view of this admission, the said Gopal Reddy got his suit, O.S.No.348 of 1989, dismissed for default on 07.08.1996.

9. As the matters stood thus, respondent No.3 filed an application before the Joint Collector, Ranga Reddy District, to re-open his appeal which had been dismissed on 26.10.1989. It is further stated that without notice to the writ petitioners herein, the said case was re-opened and numbered as Case No.D5/9418/97 converting the appeal into a revision under Section 9 of the Act of 1971. It is alleged that the said revision was not maintainable as it was not filed against an order of the Mandal Revenue Officer or of the appellate authority, the Revenue Divisional Officer. The Joint Collector, Ranga Reddy, passed orders in the revision on 24.07.2000 advising respondent No.3 to approach the Mandal Revenue Officer, Ghatkesar Mandal, the 2nd respondent, for deciding the succession in respect of the subject property. Thereupon, the 2nd respondent came to the erroneous conclusion that only the name of the grandfather of respondent No.3 was recorded as the pattadar of the lands in question, which was in contradiction with the khasra pahani of

1954-55 which showed the names of Gopal Reddy and Siddha Reddy, the predecessors-in-title of the writ petitioners and respondent No.4, as the joint pattadars and the entries in the revenue records in the same vein. It is stated that merely because the possession of the land was shown to be with respondent No.3, the same did not have the legal implication that the joint pattadars had no rights in the lands. The possession of one joint owner should be presumed to be and treated as joint possession of all the owners. The petitioners participated in the proceedings before respondent No.2 but were unable to convince him of their rights over the subject lands. The orders passed by the Joint Collector, Ranga Reddy District, under Section 9 and the Mandal Revenue Officer, Ghatkesar Mandal under Section 5 of the Act of 1971 are challenged before this Court.

10. The main grievance of the writ petitioners are that the finding of title recorded by the revenue authorities in favour of respondent No.3 is devoid of jurisdiction. The authorities have failed to note that the petitioners and respondent No.3 along with respondent No.4 were members of a joint family and were co-owners of the subject property under a family partition. It is further submitted that the title of the co-owners was not ousted merely because of the fact that one amongst them alone was in possession and it was not open to the revenue authorities to go into complex questions or disputes of title over immovable property and that the objections raised by the petitioners, with regard to the entitlement of respondent No.3 being limited to only

a half share in the subject lands, were not considered in the proper perspective by the revenue authorities.

CONTENTIONS OF THE APPELLANT/3RD RESPONDENT:

11. On behalf of the 3rd respondent/appellant filed a counter affidavit denying the sharing and enjoyment of the family's ancestral properties under the alleged partition put forth by the petitioners and more specifically, the claim put forth by them that the grandfather of respondent No.3, Jagga Reddy, and their predecessors-in-title, Gopal Reddy and Siddha Reddy, jointly owned the lands at Kondapur. The petitioners, without making a distinction between a great grandfather and a grandfather, were trying to lay a claim spanning five generations when law posited that a coparcenary can extend only upto three generations from the holder. Even in O.S.No.348 of 1989, respondent No.3 had denied the relationship alleged to exist between him and the predecessors in-title of the petitioners herein. The said suit was dismissed for non-prosecution after being dragged on for seven years. Petitioners No.4 and 5 had come on record in the said suit after the death of Gopal Reddy. The dismissal of the suit had become final as no appeal was preferred and no steps were taken to restore the case to the file.

12. It is further submitted that according to respondent No.3, Gopal Reddy and Siddha Reddy, the predecessors-in-title of the petitioners, with a view to grab the subject lands got their names interpolated in the khasra pahani of 1954-55 in collusion with the

Village Patwari, who was their first cousin. It is asserted that they did not have any right in respect of the subject lands and the mere fabricated entry in the revenue record did not vest them with any entitlement over the subject lands. In the Sethwar of 1953 only the name of respondent 3's grandfather, Jagga Reddy, found mention both as the pattadar as well as the possessor. Similar is the case with the Wasool Baqi of the year 1354-F. The Village Patwari, Sri K.Surender Reddy, was in the habit of making illegal entries and was ultimately removed from service. Respondent No.3's grandfather, Jagga Reddy, had filed an appeal under Section 15(2) of the Regulation of 1358-F and the Tahsildar submitted a report on 21.06.1967, which was in favour of Jagga Reddy. However, owing to the expiry of Jagga Reddy and the ignorance of his heirs about the filing of the said appeal, the same was dismissed for default. Having come to know regarding the wrong entries in the revenue records, respondent No.3 filed an appeal afresh under Section 15(2) of the Regulation of 1358-F. The said proceedings were closed owing to the fact that Gopal Reddy had filed O.S.No.348 of 1989 before the Principal Subordinate Judge, Ranga Reddy District, and brought it to the notice of the District Revenue Officer. While closing the proceedings by his order dated 26.10.1989, the District Revenue Officer opined that he has no jurisdiction to interfere in civil case pending before the Principal Sub-Judge, Ranga Reddy District in O.S. No.348 of 1989 until final orders were passed by the Civil Court and accordingly dismissed the appeal.

13. It is further submitted that as the only ground for the dismissal of his appeal was the pendency of the suit and when the suit was dismissed on 07.08.1996, it was lawful and appropriate for the Revenue Authority to re-open the proceedings upon an application. Reliance is placed upon Rule 32 of the A.P. Rights in Land and Pattadar Pass Books Rules, 1989 (for short, the Rules of 1989) which states that after the disposal of the civil suit, the party is required to communicate the result to the Revenue Authority which shall take necessary steps in the matter thereafter.

14. It is submitted that the petitioners failed to participate in the proceedings before the Joint Collector in spite of notices being served upon them. Though substituted service of notice was permitted on 08.04.2000, which was carried out by publication of the notice in Eenadu Newspaper, in spite of those steps, the petitioners failed to put in an appearance and in view of the same the writ petitioners were set *ex parte* and the matter was heard on merits. Thereupon, the Joint Collector directed the respondent No.3 to approach the Mandal Revenue Officer by his order dated 24.07.2000. Before the Mandal Revenue Officer, Ghatkesar, the petitioners responded to the notices issued and filed their objection petition. It is specifically pointed out that the petitioners did not choose to challenge the order of the Joint Collector dated 24.07.2000 at that stage and merely acted in pursuance thereof, by agitating their claim before the Mandal Revenue Officer who was seized of the matter, solely because of the

order dated 24.07.2000 passed by the Joint Collector. The Mandal Revenue Officer passed orders in favour of respondent No.3 after due and proper enquiry. The said order is appealable under Section 5(5) of the Act of 1971 and circumventing the said statutory remedy, the petitioners had approached this Court by way of the present writ petition.

15. Respondent No.3 also placed reliance upon the fact that he and his father had filed a declaration under the provisions of the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (for brevity, the Act of 1973) and proceedings were issued in their favour showing the subject lands in their land holding. The respondent No.3 claimed to have sold part of the land to the knowledge of one and all and stated that the petitioners had not taken any steps at that point of time. The respondent No.3 also relied upon the fact that the sale deed executed by him did not allude to any admission on his part that Gopal Reddy and Siddha Reddy, the predecessors-in-title of the petitioners were the joint owners of 50% share of the subject lands. In summation, it is contended that if the petitioners are aggrieved by the entries made in the revenue records in respect of the land which was in their alleged possession, their remedy is to institute a suit under the provisions of Section 8(2) of the Act of 1971 or in the alternative, file an appeal under Section 5(5) of the Act of 1971 and that the writ petition is not maintainable.

16. The Appellant/3rd respondent would contend that as per the tenets of Hindu Law there could be no jointness beyond three degrees from the holder. He pointed out that a coparcenary would only extend over four generations and as per the genealogy put forth by the petitioners in the present case, respondent No.3 and the petitioners along with respondent No.4 cannot by any stretch of imagination, be said to be coparceners. He also pointed out that the revenue authorities had passed the orders under challenge in exercise of the powers conferred by the Act of 1971 and therefore it could not be said that there was an inherent lack of jurisdiction. According to him, the exercise of powers conferred by the Act of 1971 was entrusted only to the revenue authorities and the orders under challenge manifested the exercise of such powers within the scope provided. That since the proceedings in O.S. No.348 of 1989 were dismissed for default there was no illegality in respondent No.3 seeking reopening of the said proceedings. Owing to the lack of representation on behalf of Gopal Reddy and Siddha Reddy in the reopened proceedings, the Joint Collector decided the matter on the basis of the material on record and passed orders dated 24.07.2000 advising respondent No.3 to approach the Mandal Revenue Officer for sanction of succession over the subject lands.

17. Though, the petitioners have participated in the proceedings before the Mandal Revenue Officer, Ghatkesar Mandal, having received the notices issued in those proceedings and they never

sought to question the order of the Joint Collector, Ranga Reddy district at that stage, which resulted in their waiving any objection that they may have raised as against the said order and accordingly, it was not open for them to challenge that order in the present writ petition.

18. In support of his contention that the entries in the Khasra pahani of 1954-55 had been fabricated by the predecessors-in-title of the petitioners with the active connivance of their cousin Surender Reddy, the Patwari, the learned counsel drew the attention of this Court to the order passed by the Joint Collector, Hyderabad district in a separate proceeding on 30.04.1963 wherein the Patwari, Surender Reddy, was indicted.

19. The Appellant/3rd respondent would also submit that in the proceedings of the Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, respondent No.3 and his father along were parties to the computation of holdings in respect of the subject lands and in view of the same, it is not open to the petitioners to allege that the orders under challenge are inherently without jurisdiction. The provision vested the authorities with the power to undertake an enquiry into the issue of title and that the orders passed by the revenue authorities were within jurisdiction of power exercise. There were no serious questions or disputes pertaining to the title over the subject lands in the light of the material placed on record by the respondent No.3. Except for the entry in the khasra pahani of 1954-55 which was

fraught with suspicion and which formed the basis for the subsequent entries in the revenue records, the petitioners had no basis for their claim before the revenue authorities.

20. After considering the contentions of the parties, the learned Single Judge has passed the impugned order dated 26.12.2008, in W.P. No.23945 of 2000. Aggrieved by the same, the appellant/3rd respondent has filed the present appeal.

ANALYSIS:

21. The issue which fell for consideration in the writ petition was to examine the extent and scope of jurisdiction of Revenue authorities in exercise of powers conferred under Section 5 and 9 of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971.

22. The learned counsel for the appellant/3rd respondent submitted that the observations made by the learned Single Judge are contrary to the record and in support of his claim, he placed reliance on the judgment reported in the case of **State of Andhra Pradesh Vs. Pramila Modi and others**¹ and submits that the relevant paras are 56 to 58, which reads as under:

“56. Whether the pattas as recorded in sethwar (Settlement Record) is evidence of title and whether the entries in Sethwar and Tippans prepared after the enquiry under Sections 77, 78, 86 and 88 of the Land Revenue Act have any bearing on the

¹ 2005 (4) ALD 105 (DB)

questions of title, had fallen for consideration in *Union of India v. Vasavi Co-operative housing Society Ltd.*, 2002 (5) ALD 532 = 2002 (5) ALT 370 (DB).

57. This Court after referring to its earlier decisions rendered under the Land Revenue Act in *Anthya v. Gattadu*, AIR 1950 Hyderabad 58; *Phoola Bhanna v. Rekha Deva*, AIR 1957 Hyderabad 23; and *Syed Jalal v. Targopal*, AIR 1970 AP 19, and relevant provisions of the Land Revenue Act, observed:

“It is thus recognised that transfer of a patta of a holding would amount to transferring of all that is necessary to effectually transfer agricultural land and vest a title in the person to whom it is transferred. Transfer of patta is thus nothing but a transfer of title itself. It is thus clear that patta is nothing but a title itself so far as the agricultural land is concerned in Telangana area of State of Andhra Pradesh. The Division Bench in *Syed Jalal v Targopal*, AIR 1970 AP 19, while construing various provisions of the Land Revenue Act and the scheme of the Act observed that “indubitably, the patta of agricultural land itself is a evidence of right of the holder, a transfer of which is also deemed to be a permanent alienation.

It is thus clear that so far as the agricultural lands are concerned, the pattedar is the one in whom the title vests and the patta of agricultural land itself is a evidence of title.”

58. In the circumstances, the entries in the sethwar prepared and maintained under the provisions of the Land Revenue Act cannot be equated to that of mere revenue entries for the purpose of collection of land revenue. This Court after referring to the very decisions upon which the learned Advocate-General placed reliance observed:

“We are required to notice that in none of the judgments referred to hereinabove, there is any reference to

any of the statutory provisions under which the revenue records referred to therein, *viz.*, Revenue Registers/Settlement Registers/Jamabandi Registers, are maintained. There is no indication as to whether those registers or records were maintained under any statute. It is not even clear as to whether those documents were maintained by any statutory authority in discharge of its normal official duties. The nature of the documents and the entries made therein are not dealt with in any one of those judgments.”

23. On the other hand, a brief synopsis was submitted on behalf of respondents No.4 to 9, 11 and 12. The learned counsel for the respondents made the following submissions:

1. That the action of the learned Joint Collector, Ranga Reddy District, in treating an application filed by the appellant seeking to reopen the earlier application filed by him under Section 15(2) of the repealed Regulation of 1358-F as one under Section 9 of the ROR Act, 1971 is impermissible and untenable.

2. That the Joint Collector had *suo-moto*, without any jurisdiction, power or authority and that apart in complete violation of the ROR Act, 1971 had converted an application filed by the appellant under Section 15(2) of the repealed Regulation of 1358-F as a Revision Case under Section 9 of the ROR Act, 1971.

3. That there is no provision in the ROR Act, 1971 which is identical to Section 15(2) of the Regulation of 1358-F and therefore the action of the Joint Collector in converting an application filed under Section 15(2) of the repealed Regulation of 1358-F to a Revision case

under Section 9 of the ROR Act, 1971 is completely without any basis and jurisdiction.

24. The learned counsel in support of the above submissions refers to the relevant paras/pages of the impugned order passed by the learned Single Judge.

To this effect, the learned Single Judge at page 49, 2nd paragraph of the order dated 26.12.2008 had categorically held that:

...."The application filed by respondent No.3 seeking reopening of a proceeding under a repealed enactment which, in effect was not even in existence as on that date, ought not to have been converted into a Revision U/s.9 of the Act, 1971. No such power of conversion is vested in the Joint Collector, Ranga Reddy District under the provisions of the Act, 1971. There was inherent lack of jurisdiction in the Joint Collector, Ranga Reddy District, to do so as is evident from the provisions of Section 9 itself."....

25. That the Revenue Authorities/Joint Collector as well as the Mandal Revenue Officer are not vested with the jurisdiction, power or authority to decide title disputes and other disputed questions of facts.

To this effect, the learned Single Judge at page 55 and 56, of the order dated 26.12.2008 had held as under:

"...it appears that the Mandal Revenue Officer, Ghatkesar Mandal, lost sight of the fact that in exercise of the powers conferred by the Act of 1971 and in preparing the record of rights thereunder, he was not only dealing with the aspect of possession but was also required to record a finding with regard to title. However the approach of the Mandal Revenue Officer as demonstrated by the order shows that he was swayed only by the exclusive possession and enjoyment of respondent 3 and did not toil over the issue of title though the dispute pertaining thereto loomed large".

"The Mandal Revenue Officer, Ghatkesar Mandal, in fact, did not venture into this issue and merely basing on the possession aspect came to the conclusion that respondent 3's name should be incorporated in the pattadar column in respect of the subject lands and that he would be entitled to obtain the title deed and the pass book as per the provisions of the Act of 1971. This order had the effect of extinguishing the rights, if any, of the petitioners who were laying a claim through Gopal Reddy and Sidda Reddy, whose names were in existence under the ownership column in the revenue records even upto the year 1996-97".

26. Further, insofar as the discussion about the jurisdiction, power and authority of the Revenue Authorities in deciding title disputes and complex disputed questions of fact while acting under the ROR Act, 1971, the learned Single Judge at Page No.44 of the order dated 26.12.2008 had held as under:

"It is however to be noted that revenue authorities are not substitutes for the Courts of competent civil jurisdiction and it is for the party concerned to invoke such jurisdiction so as to bar the summary enquiry by the revenue authorities into issues of title in particular given circumstances. Needless to state revenue authorities, in such a 'summary enquiry', would not be capable of deciding complicated questions of title... "

Also, at page No.52, the learned Single Judge had discussed on the disputed questions of facts which are present in the instant case:

"...By its very nature, this dispute raised complicated questions of fact and law. Allegations are made that the original entry in the khasra pahani of 1954-55 was with the active connivance of one Surender Reddy, patwari, who was allegedly related to Gopal Reddy and Sidda Reddy. Such allegations would require to be tried and tested by way of adducing of evidence in a regular trial before a competent civil Court..."

27. Finally, the learned Single Judge at page Nos.56 and 57 had categorically held that:

"Therefore, the said order was devoid of jurisdiction and far in excess of the powers conferred by the Act of 1971 and the Rules of 1989. The Revenue Authorities, be it the Joint Collector or the Mandal Revenue Officer, acting in exercise of the powers conferred by the Act of 1971 could not have resolved the disputed questions of title which were

thrown up by the facts of the present case. The decisions in G.PADMAVATHI's case (1 supra), PATEL RAGHAV NATHA's case (2 supra), K.SIDDIAH NAIDU's case (3 supra), V.GOUTHAM RAO's case (5 supra), SANNEPALLI NAGESWAR RAO's case (6 supra) and B.PUSHPAMMA's case (9 supra) are of guidance and support in this regard."

"Complex and serious disputes of title falling beyond the ambit of Rule 9 of the Rules of 1989 are not within the ken of the adjudicative authority of revenue authorities even under the Act of 1971. It is for the parties to initiate appropriate proceedings before a civil Court of competent jurisdiction to resolve their dispute and it is not open to either party to turn to the Act of 1971 to steal a march over the other. Needless to state, in the event of either party approaching a civil Court of competent jurisdiction, it is open to them to raise all the issues and contentions raised in this writ petition, including the effect and consequences of the dismissal of the suit O.S.No.348 of 1989 for default, and the same would be decided independently without being influenced by any observations made herein."

28. The learned counsel would further submit that even otherwise, if the Joint Collector is vested with the powers to *suo-moto* convert an application filed under repealed regulation to a revision case under Section 9 of the ROR Act, 1971, the same has to be exercised within a reasonable period of time. However, the appellant/3rd respondent herein sought for correctness and rectification of entries made in

Khasra pahani of 1954-55, after more than 40 years and the same has not been preferred within a reasonable period of time.

29. He would further submit that the Hon'ble Supreme Court in the case of **Joint Collector, Ranga Reddy District and another Vs. D.Narsing Rao and others**², held that even when there is no limitation period prescribed for the exercise of any power, revisional or otherwise, such power must be exercised within a reasonable period and refers to relevant paragraph Nos.25 and 31.

30. The learned counsel further made the submissions on the following issues:

ISSUE No.1

Whether the revenue authorities have the power or jurisdiction to decide the complicated questions of title and possession?

Submission:

It is respectfully submitted that, it is well settled law by the Hon'ble Supreme Court as well as various Hon'ble High Courts that revenue authorities have no power or jurisdiction to decide the complicated questions of title and possession.

Relied on the following citations:

- i) **AIR 1969 SC 1297**, State of Gujarat Vs. Patel
Ragha Natha (relied on Para 14)

² (2015) 3 SCC 695

- ii) **1999(4) ALT 209 (D.B.)**, Commissioner of Survey, Settlement and Land Records, Govt. of A.P. Vs. G.Padmavathi (relied on paras 22 to 25, 33, 34, 44 & 45).
- iii) **1999(5) ALT 480**, K.Siddaih Naidu District Collector, Chittoor (relied on para Nos.9 & 10).
- iv) **2001 AIHC 1990**, Shanti Lal Vs. Board of Revenue (relied on para Nos.3 & 4).
- v) **2003(1) ALT 615**, V.Goutham Rao Vs. Revenue Divisional Officer, Jagtial (relied on para Nos.10 to 12)
- vi) **(2003) 2 SCC 464**, Mahila Bajrangi Vs. Badri Bai (relied on para Nos.6 at Page No.81)
- vii) **2005 (1) ALT 240**, B.Pushpamma & others Vs. Joint Collector, R.R. District (relied on para Nos.7 to 9)
- viii) **(2008) 8 SCC 12**, Faqrudin Vs. Tajuddin (relied on para Nos.44 & 45)

ISSUE No.2:

Whether an order which lacks inherent jurisdiction would be a nullity?

Relied on the following citations:

- i) **AIR 1954 SC 340**, Kiran Singh & others Vs. Chaman Paswan (relied on para No.6 at)

- ii) **AIR 1969 SC 193**, Chief Justice of A.P. Vs. L.V.A. Dikshitulu (relied on para No.23)
- iii) **(2003) 2 SCC 418**, Bihar State Mineral Development Corpn. Vs. ENCON Builders (P) Ltd (relied on para Nos.31 & 32)

ISSUE No.3:

Whether the authorities have to exercise their power within a reasonable period?

Relied on the following citations:

- i) **AIR 1969 SC 1297**, State of Gujarat Vs. Patel Ragha Natha (relied on para Nos.11 & 12)
- ii) **(2003) 7 SCC 66**, Ibrahimpatnam Taluk Vyavasaya Coolie Sangham Vs. K.Suresh Reddy (relied on para Nos.9, 13 & 19)
- iii) **2006|(2) ALT 341 (D.B.)**, S.Santhanam & others Vs. State of A.P. Revenue Depart (relied on para Nos.16 & 17)
- iv) **(2015) 3 SCC 695**, Joint Collector, Ranga Reddy District & another Vs. D.Narsing Rao & others (relied on para Nos.16, 31)

ISSUE No.4:

Whenever an Act is repealed, it must be considered as if it had never existed?

Relied on the following citations:

- i) **(2011) 5 SCC 305**, State of Uttar Pradesh and others Vs Hirendra Pal Singh and others (relied on para Nos.22 & 24)
- ii) **(2019) 19 SCC 626**, State of Odisha and another Vs. Anup Kumar Senapati and another (relied on para Nos.29 & 30)

DISCUSSION:

31. The judgment of **Pramila Modi** (one supra) referred by the learned counsel for the Appellant/respondent No.3 is not applicable to the facts of the present case. In the case referred (one supra), it is the case that transfer of patta is nothing but a title. However, in the present case, the subject lands were alleged to be ancestral properties and the parties herein have common lineage. As such, the properties classified as ancestral properties cannot be claimed by any individual where complex questions of disputes of title exists which are for beyond the scope of summary enquiry and more so, on earlier occasion a partition suit was filed on the subject properties which was dismissed for default.

32. In the case on hand, the orders dated 24.07.2000 passed by the Joint Collector directing the Appellant/3rd respondent to approach the Mandal Revenue Officer for sanction of succession over the lands would suggest that the Joint Collector, without making a detailed enquiry and without considering the facts that there was earlier

partition suit filed and that there was a claim of joint common lineage of the family and the subject lands are considered as ancestral, without examining the said issues, has directed the Appellant/3rd respondent to approach the Mandal Revenue Officer for sanction of succession over the lands is inappropriate and unsustainable and that the consequential order dated 10.11.2000 passed by the Mandal Revenue Officer, Ghatkesar Mandal, Ranga Reddy district is in excess of jurisdiction and held to be null and void.

33. The learned Single Judge, after considering the provisions of the Act and various judgments, finally held as under:

“Therefore, the said order was devoid of jurisdiction and far in excess of the powers conferred by the Act of 1971 and the Rules of 1989. The Revenue Authorities, be it the Joint Collector or the Mandal Revenue Officer, acting in exercise of the powers conferred by the Act of 1971 could not have resolved the disputed questions of title which were thrown up by the facts of the present case. The decisions in G.PADMAVATHI’s case (1 supra), PATEL RAGHAV NATHA’s case (2 supra), K.SIDDIAH NAIDU’s case (3 supra), V.GOUTHAM RAO’s case (5 supra), SANNEPALLI NAGESWAR RAO’s case (6 supra) and B.PUSHPAMMA’s case (9 supra) are of guidance and support in this regard.

Complex and serious disputes of title falling beyond the ambit of Rule 9 of the Rules of 1989 are not within the ken of the adjudicative authority of revenue authorities even under the Act of 1971. It is for the parties to initiate appropriate proceedings before a civil Court of competent jurisdiction to resolve their dispute and it is not open to either party to turn to the Act of

1971 to steal a march over the other. Needless to state, in the event of either party approaching a civil Court of competent jurisdiction, it is open to them to raise all the issues and contentions raised in this writ petition, including the effect and consequences of the dismissal of the suit O.S.No.348 of 1989 for default, and the same would be decided independently without being influenced by any observations made herein.

In the result, the order dated 24.07.2000 passed by the Joint Collector, Ranga Reddy District, in exercise of revisional jurisdiction under Section 9 of the Act of 1971 is found to be without jurisdiction and hence, unsustainable. The consequential order dated 10.11.2000 passed by the Mandal Revenue Officer, Ghatkesar Mandal, Ranga Reddy District, in exercise of powers conferred by Section 5 of the Act of 1971 had the effect of resolving serious and complex disputes of title far beyond the scope of the summary enquiry which could have been initiated by the said Officer under Rule 9 of the Rules of 1989. The said order is in excess of jurisdiction and is accordingly held to be null and void.

The writ petition is therefore allowed. There shall be no order as to costs.”

CONCLUSIONS:

34. Having considered the rival submissions of the parties and observations made by the learned Single Judge and that since the petitioners claim that they and respondents No.3 and 4 share a common lineage whereby the subject lands were considered as ancestral properties, the order dated 24.07.2000 passed by the Joint

Collector, Ranga Reddy District and the consequential order dated 10.11.2000 passed by the Mandal Revenue Officer, Ghatkesar Mandal, Ranga Reddy District, are found to be without and excess of their jurisdiction. Therefore, we do not find any reason to interfere with the impugned order dated 26.12.2008 passed in W.P. No.23945 of 2000 by the learned Single Judge and we concur with the findings made therein by the learned Single Judge.

35. Accordingly, this writ appeal is dismissed. There shall be no order as to costs.

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

ALOK ARADHE, CJ

N.V. SHRAVAN KUMAR, J

Date: 13-10-2023

L.R. Copy to be marked.
B/o.
LSK