

THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

+ WRIT PETITION No.27494 OF 2013

% Dated 21.12.2023

Ms.Chakali Meera Raju Bai W/o.Gangam Ram
Aged 65 years, occ: Agriculture,
R/o.Allor Village,
Armur Mandal, Nizamabad District.

....Petitioner

VERSUS

\$ The Government of Andhra Pradesh
Rep. by its Principal Secretary,
Revenue Department,
Secretariat, Hyderabad and five others.

... Respondents

! Counsel for Petitioner : Mr.T. Vijay Hanuman
Singh

^ Counsel for Respondents : GP

< GIST:

> HEAD NOTE:

? CITATIONS:

THE HONOURABLE SRI JUSTICE J.SREENIVAS RAO

WRIT PETITION No.27494 of 2013

O R D E R:

This Writ Petition is filed seeking following relief:

“...to an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus setting aside the orders of the Tahasildar-Armur, NZBD District in his Proc.No.11660 of 2011 dated 05.06.2012 and that of the Joint Collector, Nizamabad District in his proc.case No.E1/3095/2012 dated 29.12.2012 as arbitrary, illegal and offends the provisions of the AP Assigned Land (Prohibition of Transfer) Act, 1977, as assured in Act No.21 of 2008 and also the provisions of law of Limitations Act and consequently direct the Respondents to restore the possession and enjoyment of the land to the petitioner in accordance with the orders of the Tahsildar, Armur in Proc.No.1270/98 dated: .07.1998 pass such other order deemed fit and just.”

2. Heard Sri T.Vijay Hanuman Singh, learned counsel for the petitioner, learned Assistant Government Pleader for Assignment for respondent Nos.1 to 5, and Sri P.Lakshma Reddy, learned counsel for respondent No.6.

3. Learned counsel for the petitioner submits that the petitioner is a landless poor person and she had purchased an extent of Ac.2.00 gts. of land in Sy.No.2086 from Porumala Gangu Bai W/o.Sayanna on 21.03.1972 through sada sale deed (on a plain paper) for an amount of Rs.3,000/- and since then she has been in possession and enjoyment of the said property and brought the said land under cultivation by spending considerable amount. He further

submits that the petitioner dug a borewell in the year 1993 and obtained electricity service connection and is doing agriculture. The then Mandal Revenue Officer, Armoor, regularized the said sada sale deed as per the provisions of Section 5-A of A.P. Rights in Lands and Pattadar Pass Books Act, 1971 (for short, 'the Act') and issued proceedings *vide* Proc.No.1270 of 1998 dated:Nil.07.1998. Pursuant to the same, the revenue authorities have issued pattadar pass book bearing No.228439 with patta No.619. Subsequently, the petitioner availed the loan from Syndicate Bank by mortgaging the said property through document No.1279 of 2007.

3.1. He further submits that respondent No.5 initiated proceedings basing upon the representation submitted by respondent No.6 before the respondent No.4 and passed order *vide* Procs.No.B/11660/2011 dated 05.06.2012 to restore the property to the legal heirs of original assignee i.e., respondent No.6, on the alleged ground that the then Mandal Revenue Officer, Armoor granted assignment patta *vide* Procs.No.A3/7159/1985 dated 30.04.1986 in favour of Madgi Porumala Gangu W/o.Sayanna, and the petitioner is in illegal possession of the above said property.

3.2. Learned counsel vehemently contended that respondent No.5 without following the due procedure as contemplated under the provisions of A.P. Assigned Lands (Prohibition of Transfer) Act, 1997

(herein after called, 'Act 9 of 1977') and Rules made thereunder issued the impugned proceedings dated 05.06.2012, admittedly, the petitioner had purchased the property from P.Gangu Bai on 21.03.1972 by paying valuable sale consideration and the said document was regularized by the then Mandal Revenue Officer, Armoor, after following the due procedure as contemplated under the Act.

3.3. He further submits that the Village Revenue Officer submitted a detailed report dated 07.07.2011, wherein it is stated that the petitioner has been in possession of the subject property and pattadar pass book was also issued in her favour and the said proceeding has become final. Respondent No.6 is claiming the rights over the subject property basing upon the alleged assignment patta granted in favour of Madgi Porumala Gangu W/o. Sayanna and during her lifetime she has not made any complaint nor questioned the possession of the petitioner or questioned the sale transaction dated 21.03.1972. After lapse of long period, respondent No.6 filed application before respondent No.3 for seeking implementation of the orders dated 05.06.2012 and respondent No.3 without giving opportunity to the petitioner passed the impugned order *vide* Case No.E1/3095/2012 dated 29.12.2012 directing respondent No.5 to restore the subject land in favour of the legal heirs of the original

assignee. The order passed by respondent No.3 is clear violation of the principles of natural justice.

3.4. He further submits that the petitioner is a landless poor person and she is in possession of the property since 1972 and she comes within the definition of Sivai Jamadar as per the Board Standing Orders and the petitioner is a bonafide purchaser and she is entitled to claim the benefit as per the provision of sub-section 5 of Section 3 of the Act 9 of 1977. Respondent Nos.3 and 5 without giving opportunity to the petitioner passed the impugned orders and the same are contrary to the law.

4. *Per contra*, Sri P.Lakshma Reddy, learned counsel, contended that the petitioner is claiming the rights over the subject property basing on the sada sale deed dated 21.03.1972 and the said document is fabricated and created for the purpose of claiming the rights over the property and Madgi Porumala Gangu is not having any rights over the subject property as on the date of execution of the alleged sada sale deed dated 21.03.1972. He further submits that the Mandal Revenue Officer, Armoor, had granted assignment patta in favour of Madgi Porumala Gangu on 30.04.1986. Hence, the petitioner is not entitled to claim any rights over the subject property, basing upon the alleged sada sale deed.

4.1. He further contended that the petitioner is also claiming rights over the property basing upon the alleged regularization proceedings dated Nil.07.1998 by the then Mandal Revenue Officer, Armoor. Admittedly, the Mandal Revenue Officer is not having jurisdiction to regularize/validate the alleged document dated 21.03.1972 in the year 1998, especially the subject property is government assigned land and the same is contrary to the provisions of sub-section 3 of Section 5 of the Act. He also contended that respondent No.5 after following the due procedure as contemplated under the provisions of Act 9 of 1977 passed the order dated 05.06.2012 holding that respondent No.6 is the successor of the original assignee and he is entitled for restoration of the possession and the petitioner is in illegal possession of the subject property. The order passed by respondent No.5 has become final. The petitioner has not filed appeal by questioning the said order under the Act. Respondent No.6 filed application before respondent No.3 requesting him to issue necessary orders for implementation of the order dated 05.06.2012 passed by respondent No.5. Respondent No.3 rightly passed the impugned order dated 29.12.2012, directing respondent No.5 to restore the subject land in favour of legal heirs of the original assignee without any further delay.

4.2. He further submits that pursuant to the orders passed by respondent No.3, respondent No.5 has handed over the possession of

the subject property to respondent No.6 by conducting panchanama on 05.01.2013 and thereafter pattadar pass book and title deed were also issued in his favour and the cause in the writ petition does not survive.

5. Learned Assistant Government Pleader submits that the subject land is a government land and the then Mandal Revenue Officer, Armur, had granted assignment patta in favour of Madgi Porumala Gangu, who is the mother of respondent No.6, on 30.04.1986 after following the due process under the Laoni Rules contained in G.O.Ms.No.1406 dated 25.07.1958 read with G.O.Ms.No.1724 dated 26.08.1959. Basing upon the application filed by respondent No.6 dated 09.12.2010 for restoration of the subject land, respondent No.5 after following the due procedure as contemplated under Act No.9 of 1977 passed the order dated 05.06.2012 and the said order has become final. Respondent No.6 filed application before respondent No.3 for seeking implementation of the order dated 05.06.2012. Respondent No.3 after following the due procedure rightly passed the impugned order dated 29.12.2012 directing respondent No.5 to restore the Government assigned land to an extent of Ac.2.00 gts. in Sy.No.2086 in favour of legal heirs of the original assignee. Pursuant to the same, respondent No.5 handed over the possession in favour of the legal heirs of the original assignee on 05.01.2013 by duly conducting panchanama. The

petitioner had suppressed the above said facts and filed the present writ petition. The petitioner is not entitled any relief much less the relief sought in this writ petition.

6. Having considered the rival submissions made by the respective parties and after perusal of the material available on record, it is revealed that the petitioner is claiming the rights over the subject property basing upon the un-registered sale deed (simple sale deed on a plain paper) dated 21.03.1972, on the ground that she had purchased the same from Poormalla Gangu Bai W/o.Sayanna by paying sale consideration of Rs.3,000/- and the said sale deed was regularized by the then Mandal Revenue Officer, Armoor, through proceedings dated Nil.Nil.1998 and issued 13 (B) certificate and the said document does not contain any date and month. However, the petitioner pleaded in the affidavit that the Mandal Revenue Officer issued the said proceedings in the month of July 1998. Pursuant to the said certificate, her name was mutated in the revenue records and she was also issued pattadar pass book and title deed and the petitioner has also availed the loan from the Syndicate Bank by executing the simple mortgage deed dated 23.04.2007 and is doing agriculture by digging bore well by obtaining electricity service connection.

7. Whereas, respondent No.6 is claiming the rights over the subject property basing upon the assignment patta granted by the

then Mandal Revenue Officer *vide* Dis.No.A3/7159/95 dated 30.04.1986 in favour of his mother, namely, Madgi Porumala Gangu W/o.Sayanna and pursuant to the same, she has been in possession and enjoyment of the said property, and after her death, respondent No.6 had succeeded the said property as a successor. It further appears from the record that respondent No.6 submitted an application before respondent No.4 to restore the possession of the subject property in his favour, as the petitioner is in illegal possession. Basing on the said representation, respondent No.4 directed respondent No.5 to take appropriate steps.

8. It further reveals from the record that respondent No.5 had initiated the proceedings under the provisions of Act 9 of 1977, by issuing Form-I and Form-II notices to the petitioner as well as respondent No.6 on 13.04.2012. Pursuant to the same, respondent No.6 has submitted explanation stating that his mother did not sell, dispose or transfer the assigned land to anybody. Respondent No.5, after following the due procedure as contemplated under law, and also considering the report submitted by the Village Revenue Officer, Armour, dated 07.07.2011, passed the order dated 05.06.2012, holding that the subject land was assigned in favour of Madgi Porumala Gangu on 30.04.1986 and the petitioner is not entitled to claim any rights, over the said property, basing on the alleged sada sale deed, and also regularization proceedings issued under “the

Act”, and taken over the subject property into government custody and the same has to be restored to the legal heirs of the original assignee i.e., respondent No.6.

9. It is very much relevant to mention here that the petitioner has not questioned the above said order dated 05.06.2012 before any authority or before any Court of law. It further appears from the record that respondent No.6 filed application before respondent No.3 for seeking implementation of the orders passed by respondent No.5 dated 05.06.2012 for handing over the subject property in his favour. Respondent No.3 had treated the said application as Revision under Section (4)(1)(a) and (b) of the Act 9 of 1977 and passed the impugned order on 29.12.2022, directing respondent No.5 to restore the subject land in favour of legal heirs of original assignee without any further delay. Pursuant to the said order, respondent No.5 was handed over the possession of the subject property to respondent No.6 by duly conducting panchanama on 05.01.2013 and his name was mutated in the revenue records and also issued Pattadar pass book No.82831 and title deed in his favour on 07.02.2013. After lapse of more than nine (9) months, the petitioner filed the present writ petition before this Court on 20.09.2013, questioning the orders passed by respondent Nos.3 and 5. The petitioner has not stated any reasons for the delay in filing the writ petition and also not stated any reasons why she has not questioned the order passed by

respondent No.5 dated 05.06.2012 as per the provisions of Act 9 of 1977 before the appellate authority and the revisional authority or any Court of law. Respondent No.3 passed the impugned order dated 29.12.2012 at the instance of respondent No.6 for seeking implementation of the order passed by respondent No.5 dated 05.06.2012. It is also relevant to place on record that the petitioner has not pleaded about handing over the possession of the subject property in favour of respondent No.6 by respondent No.5 through panchanama and subsequent events. It further reveals from the record that as on the date of filing of the writ petition, the subject property was already handed over by respondent No.5 to respondent No.6 on 05.01.2013 through due process of law.

10. It is also relevant to place on record that the petitioner has simply pleaded that she is in possession of the subject property pursuant to the sada sale deed dated 21.03.1972, however, the petitioner has not produced any iota of evidence to show that she is in possession of the subject property from 1972, on the other hand the documents filed by the petitioner clearly shows, that the sada sale deed regularized in her favour in the month of July, 1998 and obtained pattadar pass book and title deed subsequent to granting of assignment patta in favour of the mother of respondent No.6 on 30.04.1986.

11. It is very much relevant to extract the provisions of sub-section 3 of Section 5 of the Act, which reads as follows;

Nothing in this section shall apply to an assigned land which was purchased by a landless poor person in good faith and for valuable consideration from the original assignee or his transferee prior to the commencement of this Act and which is in possession of such person for the purposes of cultivation or as a house-site on the date of such commencement.

12. The above said provision clearly states that the assigned lands cannot be regularized. Admittedly, the subject land is a government land, and the same was assigned in favour of the mother of respondent No.6 on 30.04.1986. Hence, the validation proceedings issued by the then Mandal Revenue Officer, Armoor, in favour of the petitioner dated Nil.7.1998 is contrary to the provisions of the Act and without jurisdiction. Respondent No.6 specifically denied that the sada sale deed is a created and fabricated for the purpose of claiming rights over the property. Neither the revenue authorities nor this Court is having any power or right to decide about the genuinity of the said document. The petitioner has to work out her remedies by approaching the competent civil Court.

13. In view of the foregoing reasons, this Court is not inclined to interfere with the impugned order passed by respondent No.3 dated 29.12.2012 and order passed by respondent No.5 dated 05.06.2012.

There are no merits in the writ petition and the same is liable to be dismissed.

14. Accordingly, the writ petition is dismissed. No costs.

In view of dismissal of main writ petition, interlocutory applications pending, if any, in this writ petition shall stand closed.

J.SREENIVAS RAO, J

Date: 21.12.2023

L.R. Copy to be marked – Yes.

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