

HIGH COURT FOR THE STATE OF TELANGANA

WRIT PETITION No.3256 of 2016

Potla Venkata Prasad, S/o Chinna Gopaiah,
Aged 53 years, Occ: Agriculture,
R/o Vallabhi Village, Mudigonda Mandal,
Khammam District.

...Petitioner

VERSUS

The State of Telangana, rep. by its
Principal Secretary (Revenue),
Secretariat, Hyderabad and others

... Respondents

DATE OF JUDGMENT PRONOUNCED: 26.03.2024

THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No
2. Whether the copies of judgment may be marked to Law Reporters/Journals? Yes/No
3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? Yes/No

J. SREENIVAS RAO, J

THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO**+ WRIT PETITION No.3256 of 2016**

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! Counsel for Petitioners : Mr.Kowturi Pavan Kumar
^ Counsel for Respondent Nos.1 to 39 : G.P. for Revenue
Sri G.Ravi Chandra Sekhar

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? CITATIONS:

HON'BLE SRI JUSTICE J. SREENIVAS RAO**WRIT PETITION No.3256 of 2016****ORDER:**

This Writ Petition is filed seeking the following relief:-

“to issue Writ or Direction preferably Writ of Mandamus declaring the Order issued by the 2nd respondent in Rc.No.E3/2806/15 dated 20.01.2016 as illegal, arbitrary, without authority apart from violative of principles of natural justice and consequently set aside the order.”

2. Heard Mr.Kowturu Pavan Kumar, learned counsel for the petitioner, learned Assistant Government Pleader for Revenue appearing on behalf of respondent Nos.1 to 3 and Sri G.Ravi Chandra Sekhar, learned counsel appearing on behalf of respondent Nos.4 and 6.

3. Learned counsel for the petitioner submits that petitioner is the owner and possessor of the agricultural land to an extent of Ac.2.20 gts in Sy.No.274/2, situated at Pedda Mandava Village, Mudigonda Mandal, Karimnagar District and the same was acquired through agreement of sale dated 27.09.2010, executed by respondent No.5, by receiving valuable sale consideration and since then he has been in possession and enjoyment of the said property. He further submits that the Village Revenue Officer after following procedure incorporated the name of the

petitioner in possession column i.e., Column No.13 (Pahani of the year 1422F (2012-2013). He also submits that the revenue authorities on inspection, recorded the name of the petitioner in possession column to an extent of Ac.2.05 gts and remaining extent of land admeasuring Ac.0.15 gts in the name of Thotakuri Hanumanta Rao and latest pahani dated 31.01.2016 clearly shows the possession of the petitioner in respect of the subject property.

3.1. While things stood thus, respondent No.5 filed a suit vide O.S.No.102 of 2015 on the file of the learned Senior Civil Judge, Khammam, against the petitioner and Mr.Thotakuri Hanumantha Rao, seeking declaration of title, perpetual injunction and also sought decree against defendant Nos.3 and 4 therein, they are Village Revenue Officer, Peddamandava Village and Tahsildar, Mudigonda Mandal for correction of entries in the revenue records by deleting the name of petitioner as well as Mr.Thotakuri Hanumantha Rao and incorporate his name in the revenue records. When the said suit is pending in respect of very same subject property including an extent of Ac.0.15 gts in Sy.No.274/2 respondent Nos.4 and 5 have approached respondent No.2 and submitted representation on 26.10.2015 alleging that they are pattedars and

enjoyers of the land to an extent of Ac.2.20 gts in Sy.No.274/2 and the Village Revenue Officer without issuing notice entered the name of the petitioner in the revenue records and requested respondent No.2 to take appropriate steps by duly conducting enquiry.

3.2. Learned counsel for the petitioner vehemently contended that respondent No.2 treated the said representation as an appeal under Section 5(B) of Andhra Pradesh (Telangana) Rights in Land and Pattedar Passbooks Act, 1971 (herein after called as “Act” for brevity), though he is not having authority and jurisdiction to treat the said representation as statutory appeal. He further contended that respondent No.2 without properly considering the contentions of the petitioner passed the impugned order dated 20.01.2016, directing respondent No.3 to restore the name of the original pattedars and enjoyers in respect of occupant’s column of the Village pahanies. Learned counsel further contended that respondent No.2 is not having authority and jurisdiction to decide the title between the parties while adjudicating the proceedings under the Act and the impugned order dated 20.01.2016 is contrary to the provisions of the Act as well as law. In support of his contentions, he

relied upon the judgment of the Division Bench of this Court in W.A.No.142 of 2009, dated 13.10.2023.

4. *Per contra*, learned counsel appearing for unofficial respondents submits that respondent No.5 is the absolute owner and possessor of the subject property and basing on the alleged agreement of sale dated 27.09.2010, Village Revenue Officer incorporated the name of the petitioner in Pahani of the year 1422F (2012-2013), without issuing notice and opportunity to the petitioner especially the Village Revenue Officer is not having any authority or jurisdiction to incorporate the name of the petitioner in the revenue records.

4.1 He further contended that as soon as after came to know about the said illegality, respondent Nos.4 and 5 have approached respondent No.2 and submitted representation requesting him to conduct enquiry and take appropriate action against the concerned Village Revenue Officer and also for rectification of entry in pahani and respondent No.2 after considering the contentions of the respective parties and also after due verification of records passed the impugned order dated 20.01.2016.

4.2 Learned counsel further contended that basing on the alleged agreement of sale dated 27.09.2010, petitioner is not entitled to claim title over the subject property. However, fairly submitted that comprehensive suit vide O.S.No.102 of 2015 filed by respondent No.5 is pending on the file of Senior Civil Judge, Khammam and the judgment and decree which is going to be passed in the said suit is binding upon the revenue authorities.

5. Having considered the rival submissions made by the respective parties and after perusal of the material available on record, it clearly reveals that petitioner is claiming the rights over the subject property basing upon the agreement of sale dated 27.09.2010, said to have been executed by respondent No.5. Basing on the same, Village Revenue Officer incorporated the name of the petitioner in possession column i.e., Column No.13 of Pahani of the year 1422F (2012-2013). Admittedly, Village Revenue Officer without issuing any notice to the effected party straight away incorporated the name of the petitioner in the pahani and the same is gross violation of the principles of natural justice.

6. It further reveals from the record that respondent No.5 filed comprehensive suit vide O.S.No.102 of 2015 on the file of Senior Civil

Judge, Khammam against the petitioner and one Mr.Thotakuri Hanumantha Rao, seeking declaration of title, and perpetual injunction. In the said suit, respondent No.5 impleaded the Village Revenue Officer, Peddamandava Village, Mudigonda Mandal, Khammam District as well as Tahsildar, Mudigonda Mandal as party defendant Nos.3 and 4 and sought decree against them for correction of entries in the revenue records by duly deleting the name of defendant Nos.1 and 2 therein and incorporate the name of respondent No.5 in the revenue records. When the said suit is pending, respondent Nos.4 and 5 have approached respondent No.2 and submitted representation dated 26.01.2015, requesting him to rectify the entry made by the Village Revenue Officer in the Pahani of the year 1422F (2012-2013) in possession column basing on the agreement of sale dated 27.09.2010. Respondent No.2 after issuing notice to the petitioner as well as to unofficial respondent Nos.4 and 5, after conducting enquiry and also after verifying the records passed the impugned order dated 20.01.2016, holding that the Village Revenue Officer incorporated the name of the petitioner in pahani basing on the agreement of sale, without issuing any notice to the effected parties i.e., unofficial respondents and directed respondent No.3 to

restore the names of the original pattedars and enjoyers in respect of occupant's column of the Village pahanies.

7. The contention raised by the learned counsel for the petitioner that respondent No.2 is not having authority or jurisdiction to pass the impugned order while exercising the powers conferred under Section 5(B) of the ROR Act is concerned, it is very much relevant to place on record that the Joint Collector is having authority and jurisdiction to call for and examine the record of any recording authority, Mandal Revenue officer or Revenue Divisional Officer under Section 3, 5, 5A or 5B, in respect of any record of rights prepared or maintained to satisfy himself as to the regularity, correctness, legality or propriety of any decision taken, while exercising the powers conferred under Section 9 of ROR Act. In the case on hand, respondent No.2 mentioned the wrong provision as Section 5(B) of the Act instead of mentioning the provisions of Section 9 of the ROR Act.

08. In *P. Venkatram Reddy Vs. Senior Divisonal Manager, LIC of India and Anr*¹, this Court after considering the principle laid down in *B.Mallikarjun Reddy Vs. G.V.Subba Reddy*(2007 (3) ALD 525) and

¹ 2007 (3) A.P.L.J. 93(HC)

Pasupuleti Subba Rao Vs.Nandavarapu Anjaneyulu(2003 (3) ALT 816) held that mere quoting of wrong provision of law always need not end in the dismissal of the application if, otherwise, the application be allowed in the light of facts and circumstances of a particular given case. Hence, the contention raised by the learned counsel for the petitioner that respondent No.2 is not having jurisdiction to pass the impugned order while exercising the power under Section 5(B) of the Act is not tenable under law.

9. In so far as other contention raised by the learned counsel for the petitioner that respondent No.2 is not having jurisdiction to decide the title between the parties while adjudicating the proceedings under ROR Act, is also not tenable under law on the sole ground that respondent No.2 has not decided the title between the parties while passing the impugned order, he only observed that the Village Revenue Officer incorporated the name of petitioner in possession column of the pahani basing on the agreement of sale without following procedure. Hence, the principal laid down by the Hon'ble Division Bench of this Court in W.A.No.142 of 2009, dated 13.10.2023 is not applicable to the facts and circumstances of the case.

10. It is relevant to place on record that in *Allwyn Housing Colony Welfare Association vs. Government of Andhra Pradesh and others*², the Hon'ble Apex Court specifically held that no order adverse to a party should be passed without hearing him. In the case on hand, Village Revenue Officer incorporated the name of petitioner in possession column of the pahani basing on the agreement of sale without issuing any notice to the effected parties and the same is contrary to the above principle.

11. For the foregoing reasons, this Court do not find any ground in the writ petition, to interfere with the impugned order passed by respondent No.2, dated 20.01.2016, exercising the powers conferred under Article 226 of the Constitution of India and same is liable to be dismissed. However, it is made clear that revenue entries, maintenance or correction of record of rights is subject to the outcome of O.S.No.102 of 2015 on the file of Senior Civil Judge, Khammam and the parties are entitled to work out their remedies as per the provisions of Section 7 of Telangana Rights in land and Pattadar Pass Books Act, 2020.

12. Accordingly, the Writ Petition is dismissed. No costs.

² 2009 (9) SCC 489

Pending miscellaneous applications, if any, shall stand closed.

JUSTICE J. SREENIVAS RAO

Date: 26.03.2024

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