

HIGH COURT FOR THE STATE OF TELANGANA

WRIT PETITION No.36520 OF 2017

Mandapa Shyam Sunder Rao,
S/o. Late Venkateshwar Rao,
Age: 59 years, Occ: Business,
R/o H.No.2379, MIG, BHEL, Sherlingampally,
R.R District, Hyderabad.
Represented by M.Ravinder,
S/o.Late M.Sathyanarayana,
Age:46 years, Occ:Business,
R/o. H.No.21-7-754, Ghanzi Bazar,
Hyderabad.

...Petitioner

VERSUS

The State of Telangana,
Rep. by its Principal Secretary,
Revenue Department,
Secretariat, Hyderabad and three others.

... Respondents

DATE OF JUDGMENT PRONOUNCED: 04-06-2024

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

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% Dated 04-06-2024

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! Counsel for Petitioner : Sri Vadlakonda Ravi Kumar

^ Counsel for Respondents : Assistant Government Pleader for Revenue.

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> HEAD NOTE:

? CITATIONS: -

HON'BLE SRI JUSTICE J. SREENIVAS RAO**WRIT PETITION No.36520 of 2017****ORDER:**

This writ petition is filed for the following relief:

to pass order or orders one in the nature of WRIT OF CERTIORARI to Quash the proceedings in File No.B/176/2008, dated 10.05.2017 issued from the Office of Respondent No.4 recording the land in Survey No.220/13, to the extent of Ac.2.00 as a KharijKhata out of Ac.3.00gts situated at Peddashapur village, Shamshabad Mandal, R.R. District as the same contravenes the Provisions of G.O.Ms.No.1117, Revenue (Assign - I)Dept, dated 11.11.1993 and G.O.Ms.No.307, Revenue (Assign-I) Dept dated 06.06.2013 against the provisions of A.P. Assigned Lands (Prohibition of Transfer) Act, 1977 and pass such other order or orders as this Hon'ble Court may deem fit in the circumstances of the case (ii) Consequently direct the respondent No.4 to remove the board installed on the property in respect of land in Sy.No.220/13, situated at Peddashapur village, R.R District and restrain the respondent No.4 from interfering including digging the agricultural land to the extent of Ac.3.00gts in Sy.No.220/13 situated at Peddashapur village, Shamshabad Mandal, R.RDistrict (iii) And further direct the respondent No.2 to 4 to grant no objection (NOC) for transferring of land by the petitioner in respect of remaining land to the extent of Ac.2.00gts out of Ac.3.00gts granted under the Ex-Servicemen quota situated at Peddashapur village through Tahsildar, Rajendranagar, proceedings No.B2/2090/1977, dated 04.01.1982 in pursuance of application made on 16.06.2006 (iv) And declare the action of the respondents as illegal, arbitrary, against the provisions of natural justice against the provisions of G.O.Ms.No.1117 Revenue (Assign - I) Dept and G.O.Ms.No.307, Revenue(Assign - I) Dept,dt 6.6.2013 and provisions of A.P. Assigned Lands Prohibition of Transfer Act, 1977 and also violation of Article 300A of the Constitution of India..."

2. Heard Sri Vedula Venkata Ramana, learned Senior Counsel representing Sri Vadlakonda Ravi Kumar Reddy, learned counsel for the petitioner and learned Assistant Government Pleader for Revenue, appearing on behalf of respondent Nos.1 to 4.

3. Learned Senior Counsel submits that originally the then Tahsildar, Rajendra Nagar Mandal, assigned land to an extent of Acs.3.00 in Survey No.220/13, situated at Peddshapur Village in favour of Tallapally Buchaiah through Patta Certificate No.B2/2090/1977. The said Buchaiah returned the assignment certificate and requested the Tahsildar, Rajendra Nagar, to cancel the assignment on the ground that he was not able to cultivate the said land. Pursuant to the said application, the then Tahsildar, Rajendra Nagar, cancelled the assignment through Proceedings Rc.No.B2/2090/77, dated 04.01.1982 and basing on the application submitted by the petitioner namely Mandapa Shyam Sundar Rao, who is ex-servicemen, reassigned the land in favour of the petitioner and assignment certificate was also granted to him under Ex-Servicemen quota, through the very same order and since then the petitioner has been in possession and enjoyment of the said property. Thereafter, the then MRO, Shamshabad Mandal had issued ROR Proceedings *vide* No.Dis.A/1300/2005, dated 19-05-2005. Pursuant to the same Pattadar Pass Book and Title Deed were issued to him.

3.1 He further submits that the petitioner alienated an extent of Acs.01.00 out of Acs.3.00 through registered sale deed *vide* document No.10270 of 2006 on 26.08.2006, in favour of M.Ravinder and since then he is in possession and

enjoyment of the said land to an extent of Acs.1.00 and he made an application before respondent No.4 for mutation of his name in the Revenue Records, accordingly respondent No.4 issued proceedings No.B/176/2008, dated 02.04.2014 granting mutation in his favour and also directed the VRO, PeddaShapur village to incorporate his name in the Revenue records and prepare Pattadar Pass Book and Title Deed in his favour and the said order has been implemented and the same has become final.

3.2. He further submits that thereafter respondent No.4 addressed the letter to R.D.O, Rajendranagar, requesting to issue clarification on whether to consider the application in respect of land to an extent of Ac.1-00 which was purchased by Mr.Ravinder. Accordingly, respondent No.4 issued notice and after considering the documents submitted by Mr.Ravinder addressed the impugned letter No.B/176/2008, dated 10.05.2017, basing upon the remand orders No.D/1991/2008, dt: 29-11-2008 passed by the RDO, Chevella Division, holding that an extent of Acs.2.00 out of Acs.3.00 is recorded as Khariz Khata and the same is contrary to the provisions of T.S/A.P. Assigned lands (Prohibition of Transfer) Act 1977, ('Act' for brevity) and G.O.Ms.No.1117, Revenue (Assignment-I) Department, dated 11.11.1993, and G.O.Ms.No.307, Revenue (Assignment-I) dated 06.06.2013.

3.3 Learned Senior counsel vehemently contended that on the one hand, respondent No.4 held that mutation proceedings were issued in favour of M.Ravinder, who is a GPA holder of the M.Shyam Sunder Rao, for an extent of Ac.1-00, out of subject land i.e., Acs.3.00 assigned in favour of the petitioner namely M.Shyam Sunder Rao under Ex-servicemen quota, on the other hand held that remaining extent of Acs.2.00 is treated as Khariz Khata and the same is contrary to the provisions of the Act and also law.

4. *Per contra*, learned Assistant Government Pleader submits that the then Tahsildar, Rajendra Nagar, without following the due procedure as per the provisions of the Act issued proceedings *vide* Rc.No.B2/2090/77, dated 04.01.1982 and he is not having authority or jurisdiction to cancel the assignment patta issued in favour of original assignee namely Tallapally Buchaiah and without submitting proposals for cancellation of the assignment certificate and without obtaining any permission from competent authority, he is not having power or authority to assign the very same subject property in favour of petitioner namely M.Shyam Sunder Rao, and basing on the said proceedings petitioner is not entitled to claim any rights over the subject property and he is not entitled to alienate the land to an extent of Acs.1.00 gts., in favour of M. Ravinder and thus, entire proceedings are null

and void.

4.1. He further submits that the then Tahsildar, Shamshabad Mandal had initiated proceedings under the Act and issued Form-I and Form-II notices under Rule 3 of A.P.Assigned Land (Prohibition and Transfer) Rules, 2007('Rules' for brevity) to Tallapally Buchaiah who is original assignee and to the petitioner and passed resumption order *vide* Proceedings No.B/176/2008 on 19.04.2008 resuming the subject land to an extent of Acs.3.00 in Survey No.220/13 into Government Custody and taken possession of the subject property under cover of panchanama on 21.05.2008 and since then the property is under the custody of the Government.

4.2 He further contended that the petitioner even without obtaining any prior permission from the competent authority alienated the land to an extent of Acs.1.00 in favour of M.Ravinder and the same is contrary to law and respondent No.4 has submitted report to the District Collector, Ranga Reddy District through impugned letter dated 10.05.2017, after due verification of the records and the petitioner is not entitled to question the same and also not entitled any relief much less the relief sought in the writ petition.

4.3 He further contended that Mr.M.Ravinder filed the present writ petition on behalf of petitioner namely M.Shyam

Sunder Rao, basing on the GPA, though he had purchased only an extent of Ac.1.00 out of Ac.3-00, and he cannot represent the petitioner for entire extent of land and hence the writ petition is not maintainable under law and the same is liable to be dismissed.

5. Having considered the rival submissions made by respective parties and after perusal of the material available on record, it reveals that the then Tahsildar, Rajendra Nagar, Taluk, had issued Final Patta Certificate *vide* Procs.No.B2/2090/77, as per the Laoni Rules contained in G.O.Ms.No.1406, dated 26.07.1958, read with G.O.Ms.No.1724, dated 26.03.1959, and G.O.Ms.No.993, dated 13.10.1996, in favour of Tallapally Buchaiah to an extent of Acs.3.00 of dry land in Survey No.220/13, situated at Peddashapur Village. Respondent No.4 filed Xerox copy of the said document along with counter and the same does not contain any date, month and year.

6. It further reveals from the records that the then Tahsildar, Shamshabad Mandal, issued order *vide* proceedings No.B2/2090/1977, dated 04.01.1982, wherein he stated that the original assignee namely Tallapally Buchaiah submitted the application on 18.11.1981, stating that he is not in a position to purchase agricultural instrument for cultivating his

assigned land and returned the assignment certificate and requested him to accept the same. Basing on the said application, the Tahsildar, Shamshabad Mandal cancelled the assignment certificate and in very same proceedings he also mentioned that basing on the other application submitted by the petitioner namely M.Shyam Sunder Rao, Ex-Servicemen, dated 02.12.1981, assigned very same land in his favour and further, held that as per the Government policy, preference should be given to Ex-Servicemen and ordered to delete the name of the original assignee from Pattedar Column in respect of subject property and record the name of petitioner. Thereafter, the petitioner alienated an extent of Acs.1.00 in favour of M.Ravinder through registered sale deed *vide* document Nos.10270 of 2006, dated 26.08.2006.

7. It also reveals that the then Tahsildar, Shamshabad Mandal, exercising the powers conferred under the provisions of Act and Rules 2007 issued Form-I and Form-II notices to the original assignee namely Tallapally Buchaiah and to the petitioner namely M.Shyam Sunder Rao on 14.02.2008 as to why the action cannot be taken for contravention of the provisions of Section 3(2) of the Act. In pursuance of the above said notices, neither the original assignee nor the petitioner have submitted any reply, on the other hand, purchaser namely M.Ravinder had submitted reply, dated 25.02.2008,

stating that originally the land was assigned to Tallapally Buchaiah and subsequently, it was assigned to M.Shyam Sunder Rao who is an ex-servicemen from whom he had purchased an extent of Acs.1.00gts., out of Acs.3.00gts. The then Tahsildar, Shamshabad passed resumption order *vide* Proceedings No.B3/176/2008, dated 19.04.2008 resuming the subject land to an extent of Acs.3.00 observing that originally subject land was assigned to Tallapally Buchaiah and was not assigned to M.Shyam Sunder Rao, therefore the transfer is clear violation of provisions of Act and thereafter, directed the Mandal Revenue Inspector, Shamshabad to take subject land into the Government Custody. The records further reveals that pursuant to the said order, the Mandal Girdawar submitted report to the Tahsildar on 21.05.2008, stating that the said land was taken into the Government custody under cover of panchanama.

8. It is relevant to place on record that aggrieved by the above said resumption order dated 19.04.2008, M.Ravinder alone filed statutory appeal invoking the provisions of Section 4(A) of the Act, in respect of land to an extent of Acs.1.00 before Special Grade Deputy Collector and Revenue Divisional Officer, Chevella Division, Ranga Reddy District and the petitioner namely M.Shyam Sunder Rao, did not question the above said resumption order.

9. During the pendency of the said appeal, M.Ravinder had approached this Court and filed W.P.No.11205 of 2008 questioning the action of respondent No.1 therein in attaching the subject property to an extent of Acs.1.00 and also the action of appellate authority in not passing order in the appeal as illegal. The above said writ petition was disposed of on 28.05.2008 and the operative portion of the order reads as follows.

“ Hence, the writ petition is disposed of directing that during the pendency of the appeal before the second respondent, the petitioner shall be entitled to remain in possession of the property, but he shall not cause any alterations or create any third party interest as regards the same. The first respondent shall cause removal of seals forthwith.”

10. It further reveals from the records that the appellate authority/RDO, Chevella Division, disposed of the appeal and passed order in case No.D/1991/2008, dated 29.11.2008, remitting the matter to Tahsildar, Shamshabad Mandal for fresh enquiry wherein it is observed that the Tahsildar, Shamshabad Mandal has not verified, whether the subject land was assigned under Ex-Servicemen quota, whether M.Shyam Sunder Rao is an ex-servicemen or not and directed the respondent No.4 to pass reasoned order by duly giving opportunity to both the assignee and the appellant therein namely M.Ravinder.

11. It further reveals from the records that, while things stood thus, M.Ravinder submitted the application before respondent No.4, seeking mutation of his name in respect of Acs.1.00 in Survey No.220/13 in the Revenue records. Even before passing any orders as directed by the RDO, Chevella Division in appeal case No.D/1991/2008, dated 29.11.2008, under the provisions of the Act 9 of 1977 and 2007 Rules, respondent No.4 had issued mutation proceedings *vide* No.B/176/2008, dated 02.04.2014, under the provisions of A.P.Rights in Land and Pattadar Pass Books Act, 1971 (for brevity "ROR Act") and on the very same day issued pattadar pass book in his favour *vide* Pass Book No.649846.

12. Thereafter, respondent No.4 addressed impugned letter No.B/176/2008, dated 10.05.2017 to the District Collector, Ranga Reddy District, wherein he stated that pursuant to the orders dated 29.11.2008, passed by the RDO, Chevella Division, the then Tahsildar issued notice to the assignee as well as to the appellant. Accordingly, M.Ravinder was present before him on 31-08-2013 and submitted documents and assignee was absent and further stated that respondent No.4 addressed a letter dated 05.09.2013, to RDO, Rajendra Nagar, requesting him to issue clarification whether to consider the request of the applicant namely M.Ravinder for mutation of land in Survey No.220/13, admeasuring Acs.1.00,

as he is claiming that he had purchased the same from ex-servicemen. Pursuant to the same, RDO Rajendranagar, issued letter *vide* No.B/4761/13, dated 28.03.2017 and directed respondent No.4 to comply the orders passed by the then RDO, Chevella Division, dated 29.11.2008. In the impugned letter he stated that, by that time, the then Tahsildar, Shamshabad had issued mutation orders in favour of the M.Ravinder to an extent of Acs.1.00 through proceedings dated 02.04.2014 and he finally stated as follows:

“In view of the it is to submit that an extent of Ac.3-00 gts in Survey No.220/13 assigned in favour of Sri Shyamsunder Rao under Ex-Servicemen quota out of which an extent of Ac.1-00 gts., was issued mutation in favour of M.Ravinder and remaining Ac.2-00., recorded as KharizKhata.

This is for your kind information”

13. The above said impugned letter reveals that respondent No.4 had only submitted the factual aspects in respect of subject property to an extent of Acs.3-00gts., in Sy.No.220/13 to the District Collector, Ranga Reddy District, basing upon the records from the date of issuance of Final Patta Certificate No.B2/2090/77 in favour of Tallapally Buchaiah/original assignee, and till issuance ROR Proceedings No.B/176/2008, dated 02-04-2014, by the then Tahsildar, Shamshabad Mandal, in favour of M.Ravinder to an extent of Ac.1-00 gts., out of total extent of Ac.3-00 gts, however he has not taken any decision nor passed any order as directed by the appellate

authority/R.D.O Chevella Division in Case No.B/1991/2008, dated 29.11.2008, under the provisions of Act 9 of 77 and Rules made thereunder. It further appears from the impugned letter that the same is an internal correspondence between respondent No.4 and District Collector, Ranga Reddy District and respondent No.4 in the subject column sought clarification from the District Collector and copy of the above said letter was not marked to the petitioner nor to Mr.M.Ravinder.

14. It is very much relevant to mention here that respondent No.4/present Tahsildar, deponent namely Smt. Koppera Nagamani, filed counter affidavit *vide* USR No.18623 on 21.02.2024 before this Court, without disclosing any averments in respect of the impugned letter dated 10.05.2017, and also subsequently, whether District Collector, Ranga Reddy District had issued any clarification or directions to respondent No.4, except stating that the entire proceedings issued by the then Tahsildar, Rajendra Nagar Mandal, and the then Tahsildar, Shamshabad Mandal, in respect of subject property are null and void. In spite of service of notices, the respondent Nos.1 to 3 have not filed any counter. On the other hand, respondent No.4 alone filed a sworn counter affidavit on her behalf and on behalf of respondents 1 to 3.

15. It is already observed *supra* that pursuant to the orders passed by the Special Grade Deputy Collector and RDO Chevella Division in Case No.D/1991/2008, dated 29.11.2008, respondent No.4 has not passed any order as per the provisions of Act 9 of 1977 and Rules made thereunder. Keeping aside the above said orders of the RDO, Chevella Division, respondent No.4/the then Tahsildar, had issued mutation Proceedings dated 02.04.2014, under ROR Act, in respect of Ac.1.00 gts., in favour of M.Ravinder and the same is gross violation of the orders of the superior officer/RDO, Chevella and the same is not permissible under law. It further appears from the records that as on today neither respondent No.4 nor District Collector, Ranga Reddy District have decided the issue as to whether the subject property was assigned in favour of M.Shyam Sunder Rao under Ex-servicemen quota, according to the scheme and also under law.

16. It is also relevant to place on record that petitioner had questioned the impugned letter dated 10.05.2017 of respondent No.4, which was addressed by the respondent No.4 to the District Collector, Ranga Reddy District, without impleading him as party respondent.

17. Taking into consideration of the facts and circumstances of the case, this Court is of the view that

respondent No.4 had not passed order as directed by the Spl.Grade Deputy Collector & Revenue Divisional Officer, Chevella Division, in appeal case No.D/1991/2008, dated 29-11-2008 as per the provisions of Act 9/1977 and Rules made thereunder and he only submitted a status report/factual aspects to the District Collector, Ranga Reddy District in respect of subject property. Hence this court is not inclined to set aside the said impugned letter dt. 10-05-2017, of respondent No.4.

18. However, to render substantial justice to the parties, respondent No.4 is directed to pass appropriate orders, by giving reasons, in accordance with law, pursuant to the orders of the Spl.Grade Deputy Collector & Revenue Divisional Officer, Chevella Division, in appeal case No.D/1991/2008 dated 29-11-2008, after giving notice and opportunity to all the parties concerned, including personal hearing within a period of two (2) months from the date of receipt of copy of this order. Till such time both the parties are directed to maintain *Status-Quo* in respect of subject property to an extent of Ac.3-00 in Survey No.220/13, situated at Peddashapur Village, Shamshabad Mandal, Ranga Reddy District. It is needless to observe that the petitioner is entitled to raise all the objections which are available under law.

19. With the above directions, the writ petition is disposed of accordingly. No order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in the writ petition stand closed.

JUSTICE J. SREENIVAS RAO

04th June, 2024
L.R.Copy to be marked: **'Yes'**.

Note:

- 1) Registry is directed to communicate a copy of this order to the District Collector, Ranga Reddy District.
- 2) Furnish C.C. within one (1) week.

BO.
PSW