

HIGH COURT FOR THE STATE OF TELANGANA

WRIT PETITION No.5454 OF 2019

- 1) Kasarla Yadagiri(died) per L.R.s
- 2) Kasarla Bhagya,
W/o Late Yadagiri, Age: 50 years,
R/o Vangapahad village, Hasanparthy Mandal,
Warangal Urban District and four others.

....Petitioners

VERSUS

- 1) The State of Telangana, Revenue Department,
Secretariat Building, rep.Through its Chief Secretary,
Government of TELangana at Hyderabad and four others.

... Respondents

DATE OF JUDGMENT PRONOUNCED: 14.03.2024

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

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% Dated 14.03.2024

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... Respondents

! Counsel for Petitioner : Sri Shashank Garige

^ Counsel for Respondent Nos.1 to 3 : G.P. for Revenue,
Sri K.Durga Prasad

< GIST:

> HEAD NOTE:

? CITATIONS:

1. AIR 1963 SC 786
2. 1990 AIR 1984

HON'BLE SRI JUSTICE J. SREENIVAS RAO**WRIT PETITION No.5454 of 2019****ORDER:**

This writ petition is filed seeking following relief:

“...to issue any writ, order or direction more particularly Writ of Mandamus or any other writ or order declaring the proceedings of the 2nd and 3rd respondents herein bearing Nos.E3/E5/7996/2015, dated 11.01.2019 and File No.A/8544/12, dated 17.10.2015, respectively as illegal, arbitrary, against the principles of natural justice and contrary to the Record of Rights in Lands and Pattadar pass Books Act, 1971 as amended 1989 and in violation of constitutional Mandates specially equality before law and equal protection of law and liable to be declared as vitiated and bad in the eye of law...”

2. Heard Sri Rajeshwar Rao, learned counsel representing Sri Shashank Garige, learned counsel for the petitioners and learned Assistant Government Pleader for Revenue appearing on behalf of respondent Nos.1 to 4, and Sri K. Durga Prasad, learned counsel appearing for respondent No.5.

3. Learned counsel for the petitioner submits that petitioner No.1 - Late Kasarla Yadagiri is husband of petitioner No.2 and father of petitioner Nos.3 to 6. During his life time he had purchased property to an extent of Acs.2.08 guntas covered by Survey No.134/1 and 134/2

situated at Vangapahad (V), Hasanparthy Mandal, Warangal District through Sada sale deed from Kasarla Durgaiyah on 20.05.1972. Since then he has been in possession and enjoyment of the said property and the above said sada sale deed was regularized by then Tahsildar, Hasanparty Mandal after following the due procedure as contemplated under the provisions of A.P.Rights in land and Pattadar Passbooks Act, 1971(Act for brevity). Pursuant to the same, respondent No.4 issued 13(B) Proceedings *vide* No.B/1273/10 dated 02.04.2011 and his name was mutated in the revenue records and pattadar passbooks and title deed was issued in his favour in the year 2011.

3.1 Questioning the same, respondent No.5 filed appeal No.A/5844/2012 before respondent No.3. Respondent No.3 without properly considering the contentions of the petitioners allowed the appeal by its order dated 17.10.2015. Aggrieved by the same, petitioner No.1 filed Revision Petition No.E3/E5/7996/2015, before respondent No.2, invoking the provisions of Section 9 of Act. During the pendency of the said revision petition, petitioner No.1 died and petitioner Nos.2 to 6 were impleaded as his legal heirs. He further contended that

respondent No.2 without properly considering the contentions of the petitioners dismissed the revision petition by its order dated 11.01.2019.

3.2. Learned counsel for the petitioner vehemently contended that regularization proceedings were issued in favour of the petitioner No.1 on 02.04.2011. Respondent No.5 filed statutory appeal before respondent No.3 after expiry of long period of two years even without explaining any reasons and without filing any condonation of delay application. Hence, respondent No.3 is not having any authority and jurisdiction to entertain the said appeal in the absence of condonation of delay. He further contended that respondent No.3 without considering the same, allowed the appeal on 17.10.2015. The petitioner specifically pleaded the above said grounds as well as other grounds in the revision petition before respondent No.2. Respondent No.2 also, without considering the same, simply confirmed the order of respondent No.3 and without giving any reasons passed cryptic order and the same is contrary to law.

4. *Per contra*, Learned counsel appearing on behalf of respondent No.5 submits that the then Tahsildar issued 13(B) proceedings on 02.04.2011 in favour of petitioner

No.1 without issuing notice and opportunity to respondent No.5. He further contended that the original pattadar namely Kasarla Durgaiyah had never alienated the subject property nor executed the alleged sada sale deed in favour of petitioner No.1 - Kasarla Yadagiri and the petitioners have not produced the said document before any authority till date.

4.1. He also contended that respondent No.4 without following mandatory procedure laid down under the Act and Rules made thereunder issued 13(B) proceedings on 02.04.2011 behind the back of the petitioner and the appellate authority after examining the entire records rightly allowed the appeal on 17.10.2015 by giving cogent reasons. The revisional authority while confirming the order of the appellate authority dismissed the Revision on 11.01.2019 and there is no illegality or irregularity in the impugned order passed by respondent No.2 confirming the order of respondent No.3 to exercise the jurisdiction of this Court under Article 226 of the Constitution of India and the scope of judicial review is very limited.

5. Having considered the rival submissions made by respective parties and after perusal of the material available on record, it reveals that petitioner No.1 is

claiming rights over the property basing on the sada sale deed dated 20.05.1972 from Kasarla Durgaiyah and also 13(B) proceedings dated 02.04.2011 issued by respondent No.4. It further appears from the records that pursuant to the same, petitioner No.1's name was mutated in the revenue records and pattadar pass book and title deed was issued in his favour.

6. Questioning the same, respondent No.5 filed appeal before respondent No.3 and the said authority allowed the appeal by its order dated 17.10.2015. Aggrieved by the same, petitioner No.1 filed revision petition before respondent No.2 by raising several grounds.

7. However, respondent No.2 without considering any of the grounds raised in the revision petition simply dismissed the revision petition and passed the cryptic order without giving any reasons. It is relevant to extract the order passed by respondent No.2 which reads as follows:

“Admittedly, the Revision petitioner and respondent No.1 are real brothers and admittedly the land under revision is also devolved from their ancestors. As per Hindu Succession Act, the legal heirs of the pattadars are having equal rights over the property which devolved.

The RDO in his order dated 17.10.2015 has rightly observed that the Tahsildar, Hasanparthy has not followed the rules as contemplated under ROR Act and its rules. As such I do not find any reason to interfere in the order dated 17.10.2015. Therefore the Revision Petition is dismissed without cost.”

8. It is very much relevant to place on record that respondent No.2 while exercising the quasi-judicial powers ought to have considered the contentions of respective parties and material evidence on record and pass orders by giving reasons. In the case on hand, respondent No.2 without considering the contentions of respective parties, without giving reasons passed the cryptic order and the same is gross violation of principles of natural justice and contrary to law.

9. It is also relevant to place on record that the Hon'ble Apex Court in ***M/s.Kranti Associates Pvt. Ltd. and another vs. Masood Ahmed***¹, specifically held that quasi judicial authority or administrative authority must record reasons in support of its conclusions while exercising appellate powers.

10. In ***Assistant Commissioner, Commercial Tax Department, Works Contract and Leasing, Kota Vs. Shukla***

¹ 2010 (9) SCC 496

and Brothers², the Hon'ble Apex Court held that to subserve the purpose of justice delivery system, it is essential that the Courts should record reasons for their conclusions, whether disposing of the case at admission stage or after regular hearing.

11. Similarly, in **State of Rajasthan Vs. Rajendra Prasad Jain**³ the Hon'ble Apex Court held that reason is the heartbeat of every conclusion, and without the same it becomes lifeless.

12. It is already stated *supra* that respondent No.2 without considering the contentions of the petitioners and without giving reasons dismissed the revision petition and passed non-speaking order and the same is contrary to the principle laid down by the Hon'ble Apex Court as stated *supra* and the same is liable to be set aside and required reconsideration.

13. However, during the course of hearing, it is brought to the notice of this Court that the State of Telangana, while repealing the Telangana Rights in Land and Pattadar Pass Books Act, 1971, legislated new enactment, namely, the Telangana Rights in Land and Pattadar Passbooks Act, 2020 (Act No.9 of 2020), and the same

² 2010 4 SCC 785

came into force with effect from 29.10.2020. By virtue of repealing the Act, 1971, respondent No.2 is not having jurisdiction to adjudicate the revision under Section 9 of ROR (old) Act. However, as per the provisions of the new enactment Act 9 of 2020, Special Tribunal Rules were constituted under G.O.Ms.No.4 Revenue (Assignment-I) Dept., dated 12.01.2021, in every District for adjudication of pending cases. Hence, the Revision Case No.E3/E5/7996/2015 has to be adjudicated by the Special Tribunal, Warangal Urban District.

14. For the foregoing reasons, the impugned order passed by respondent No.2 is set aside and the matter is remitted back to Special Tribunal, Warangal Urban District, with a direction to pass appropriate orders, in accordance with law, in Revision Case No.E3/E5/7996/2015 after giving notice and opportunity to the petitioners as well as unofficial respondents, including personal hearing, within a period of two (2) months from the date of receipt of a copy of this order. Till such time, the parties are directed to maintain *Status Quo* obtaining as on today in respect of the entries in the revenue records. It is needless to observe that both

³ (2008) 15 SCC 711

parties are entitled to raise all the grounds which are available in law.

15. With the above directions, the writ petition is disposed of accordingly. No costs.

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

JUSTICE J. SREENIVAS RAO

14th March, 2024

Note: L.R.Copy to be marked: 'Yes'

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