

**IN THE HIGH COURT OF TELANGANA AT HYDERABAD****W.P. No. 2754 of 2020****Between:**

Rachakonda Ayodya

... Petitioner

And

The State of Telangana and others

... Respondents

**JUDGMENT PRONOUNCED ON: 29.01.2024****THE HON'BLE MRS JUSTICE SUREPALLI NANDA**

1. Whether Reporters of Local newspapers : Yes  
may be allowed to see the Judgment?
2. Whether the copies of judgment may be : Yes  
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : Yes  
see the fair copy of the Judgment?

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**SUREPALLI NANDA, J**

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA****W.P. No. 2754 of 2020****% 29.01.2024****Between:**

# Rachakonda Ayodya

..... Petitioner

**And**

\$ The State of Telangana and others

... Respondents

&lt; Gist:

&gt; Head Note:

!Counsel for the Petitioner: Mr J.Suresh Babu

^ Counsel for Respondents 1 to 3 : G.P. for Revenue

^counsel for respondents 4 to 6 : Mr G.Satyanarayana Yadav

? Cases Referred:

**HON'BLE MRS JUSTICE SUREPALLI NANDA**

**W.P. No. 2754 of 2020**

**ORDER:**

Heard Mr J.Suresh Babu, learned counsel appearing on behalf of the petitioner and Government Pleader for Revenue appearing on behalf of respondents 1 to 3 and Mr G.Satyanarayana Yadav, learned counsel appearing on behalf of respondents 4 to 6.

**2. The petitioner approached the Court seeking prayer as under:**

"to issue an appropriate writ, order or direction, preferably one in the nature of Writ of Certiorari calling for the records connected with the order dated 13.01.2020 in Revision Case passed by the 2<sup>nd</sup> Respondent, in ROR Case No. F2/1663/2019 and quash the same as illegal, arbitrary and violative of principles of natural justice under Article 14, 21 and 300A of the Constitution of India."

**3. The case of the petitioner as per the averments made in the affidavit filed by the petitioner in support of the present writ petition, in brief, is as under:**

a) The petitioner is the absolute owner of the land admeasuring Ac.2.36 gts in Sy.No. 79/A1 situated at Dirishanapally village, of Nuthankal Mandal now in Suryapet District (herein after referred to as Subject Property), having purchased the same under registered sale deed in Doc. No. 5777 of 2013 dated 20.05.2013.

b) The Revenue records and the pahanies show that the petitioner is in possession of the said land as pattadar, with E-pattadar pass Books No. T29180090077 in Khatha No. 139.

c) The 4<sup>th</sup> Respondent filed an application before the 2<sup>nd</sup> Respondent claiming that the 4<sup>th</sup> Respondent along with Respondent Nos. 5 & 6 and the petitioner herein had jointly purchased the subject property for the purpose of establishing poultry firm and registered the land in the name of the petitioner.

d) It is alleged that, on 05.12.2013, the petitioner and the 6<sup>th</sup> Respondent sold their share in favour of the 4<sup>th</sup> Respondent executing a temporary sale deed on an ordinary paper. Subsequently, an application was filed before the 3<sup>rd</sup> Respondent by 4<sup>th</sup> Respondent for validation of the sale deed

in file No.SB/NG/SP/NU/2016/173776, Mee Seva Transaction No.ROS02160085228 dated 26.07.2018.

e) However, it is alleged that the VRO along with the 3<sup>rd</sup> Respondent has kept the application aside by taking money from the petitioner but the 3<sup>rd</sup> Respondent issued a notice to the petitioner stating the cancellation of his pattadar passbook and Title deed while issuing the same to the 4<sup>th</sup> Respondent.

f) Subsequently, the petitioner pleaded that he had purchased the said land under a registered sale deed dated 20.05.2013 and the same is not connected with Respondent Nos. 4 to 6 and that the allegation made against the petitioner with respect to the joint purchase of the subject property and the execution of unregistered sale deed dated 05.12.2013 are false. The revision petition filed by the 2<sup>nd</sup> Respondent is not maintainable as the 2<sup>nd</sup> Respondent has no jurisdiction to enquire into the matter.

g) The petitioner has filed O.S. No. 18 of 2018 for perpetual injunction as against the 4<sup>th</sup> Respondent for

interfering with the possession of the petitioner's land and same was granted on 25.06.2018.

h) The allegation made by the 4<sup>th</sup> Respondent that the petitioner has executed another document of sale on Rs.100.00 stamp paper on 29.07.2015 in favour of the 4<sup>th</sup> Respondent is not true. The signatures contained on both the alleged sale deeds are apparently forged and they vary from one another. Inspection and panchanama at the land was done without issuing any notice regarding the same to the petitioner.

i) Through report dated 10.07.2018, it was submitted that the 3<sup>rd</sup> Respondent herein enquired into the matter through Addl. Girdavar and found that 4<sup>th</sup> Respondent has been in possession of Ac. 1.18 gts while the 5<sup>th</sup> Respondent was in possession of Ac. 1.18 gts. However, the application filed for validation of document dated 29-07-2015 is barred by time, as found by the 3<sup>rd</sup> Respondent in his Memo dated 17-04-2019 and the same was not challenged by the 4<sup>th</sup> Respondent.

k) Thus, the 2<sup>nd</sup> Respondent without issuing any notice to the petitioner and without considering the injunction orders dated 13.08.2018 passed in O.S.No.18 of 2018, through order dated 13.01.2020, directed the 3<sup>rd</sup> Respondent to take immediate action for regularization of sada (unregistered) sale deed under the provisions of Pattadar Pass Books Act, 1971. Hence this Writ Petition.

**4. The 4<sup>th</sup> respondent filed vacate Petition along with counter affidavit. The counter affidavit filed by the Respondent No.4 is as follows:**

a) The petitioner along with Respondent No. 4, 5 & 6 have registered the subject property in the name of the Petitioner herein vide Doc.No.5777/2013, dated 20.05.2013 and an agreement dated 21-05-2013 was taken from the Petitioner to the effect that all of them are having equal shares in the subject property.

b) Respondent Nos. 4 and 5 have purchased the shares of the Petitioner and the 6<sup>th</sup> Respondent under Simple Sale Deed (Sada Bainama) dated 05.12.2013 by paying entire sale consideration and delivered possession of the land on the

same day itself vide Original Doc. No.5777/2013 along with original pattadar passbook which was handed over to the 4<sup>th</sup> Respondent.

c) Subsequently, Respondent Nos. 4 and 5 have applied for the regularization of Sada Bainama through FileNo.SB/NG/SB/NU/2016/173, dated 26.07.2018. However, the petitioner obtained Pattadar Passbook and Title Deed (new PPB as per Telangana Govt.) by Revenue Authorities ignoring the validation of the 4<sup>th</sup> respondent's Agreement of Sale (SSD) executed by the Petitioner herein.

d) Aggrieved by the same, the 4<sup>th</sup> Respondent made representations dated 30.06.2018 and 02.07. 2018 to the 3<sup>rd</sup> Respondent and the RDO, Suryapet, respectively with regard to the said grievance. Consequently, enquiry was made and report was submitted stating that Respondent Nos. 4 and 5 have purchased the said land. During process of the enquiry, notices were issued to all the parties concerned before making field enquiry and later, report dated 10.07.2018 was sent to the RDO.

e) Pursuant to the report, RDO, Suryapet, sent a letter dated 31.07.2018 to take appropriate actions i.e., by

cancelling the PPB issued to the Petitioner herein and regularize the Sada Bainama of Respondent Nos. 4 & 5. However, no action was taken. Aggrieved by the same, on 22.04.2019, the 4<sup>th</sup> Respondent made a representation before the 2<sup>nd</sup> Respondent and reasoned orders dated 13.01.2020 were passed by the 2<sup>nd</sup> Respondent in ROR Revision Case No.F2/1663/2019, directing the 3<sup>rd</sup> Respondent to take immediate action for validation of Sada Bainama (executed by the Petitioner herein) applied by 4<sup>th</sup> Respondent.

f) While the Revision Petition was pending before the 2<sup>nd</sup> Respondent, the Petitioner had executed the Red. Doc. No. 10549/2019 in favour of the Respondent No.5 herein by receiving an additional amount from him.

g) The 2<sup>nd</sup> Respondent has Revisional Jurisdiction U/s. 9 of T.S. Rights in Land & PPB Act, 1971, under which he may either suo-motu or on an application made to him, call for and examine the record of any recording Authority, MRO or RDO U/s.3, 5, 5A or 5B in respect of Record of Rights prepared or maintained etc.

h) By virtue of Injunction Order in I.A.No.30 of 2018 in O.S.No.18 of 2018, the petitioner trespassed into the said

land, as a result FIR No.99/2019, dated 28.07.2018, under Sections 447, 427, 506 and 34 IPC in PS, Nuthankal, was registered against the Petitioner herein, which corroborates that the Petitioner has not been in possession of the subject land in issue and the enquiry report also reflects the same. Hence, it is contended by the 4<sup>th</sup> respondent that the Writ Petition is devoid of merits and is liable to be dismissed.

### **DISCUSSION AND CONCLUSION**

#### **6. The relevant portions of Order impugned dated 13.01.2020 passed in ROR Revision Case No. F2/1663/2019 by the 2<sup>nd</sup> respondent, read as under:**

“I have perused the entire record produced before me by both the parties. From the documents, it is crystal clear that the Petitioner and Respondent No. 1,2 and 3 have jointly purchased the land from one Ketham Damodar on 21.5.2013. In order to establish poultry form, all these purchasers have mutually agreed to register the land in favour of Respondent No. 1 and accordingly, the same was registered vide Document No. 5777/2013, dated: 20.5.2013. Later, the Respondent No. 1 sold away the land to the petitioner and Respondent No.2 through ordinary sale deed dated 05.12.2013. By suppressing all these facts, the

Respondent No.1 had obtained Pattadar Pass book and title deed from the revenue authorities.

The Tahsildar, Nuthankal, herein Respondent No.4 has submitted report vide his Ref.No.B/288/2018, dated: 10.7.2018 stating that the Respondent No.1 has issued pattadar pass book vide Proc. No. B/582/2017 for an extent of Ac. 2.06 gts. On submitting claim petitions by the petitioner and Respondent No.2, the matter has been got enquired through additional Girdhavar and found that the Revision petitioner is in possession-and enjoyment of the land for an extent of Ac. 1.18 gts and the Respondent No.2 for an extent of Ac. 1.18 gts. As required under rule 26 (2) of TS Rights in Land and Pattadar Pass Books Rules, 1989, the person who is in actual and physical possession of the land shall be granted Pattadar pass book and title deed, subject to fulfillment of other conditions stipulated therein.

The suit filed by the Respondent No.1 is for perpetual injunction and granted temporary injunction order which is in force up to 13.8.2018 and no further extension order is produced. Merely because the civil court granted an interim injunction in favour of Plaintiff, in the absence of any stay, the revenue authorities are not precluded from discharging their function in exercise of powers conferred upon them in TS Rights in Land and Pattadar pass Books Act, 1971 and the lower appellate court can take the order passed under the said Act as additional evidence as held in Kondaveti

Francis v M.Lutheramma, 2000(3), ALT 433: 2000(2) APLU 211.

**For the foregoing discussions, it is held proved that the Revision Petitioner is in actual and physical possession of the land in Sy. No. 79 for an extent of Ac. 1.18 gts acquired by him through ordinary sale deed and applied for regularisation of sada sale deed vide file No. SB/NG/SP/NU/2016/173776 and ROS02160085228.**

**The Tahsildar, Nuthankal is directed to take immediate action for regularization of sada bainama pending for disposal as applied for by the Petitioner in respect of schedule land as per the provisions of TS Rights in Land and Pattadar Pass Books Act, 1971 and make out proposals for cancellation of irregular pattadar pass book issued in favour of respondent No.1 without having any physical possession of the land within a period of one month.**

With the aforesaid observation, the revision is allowed."

**7. The relevant portion of Memo No. B/288/2018, dated 17.04.2019 of the Tahasildar, Nuthankal Mandal, reads as under:**

"Hence it is to inform M/s Morigala Ramesh s/ o Narsaiah and Lingala Yakyaswami s/o Swami that on

verification of the document in Sada sale deed, as per the GO Ms. No. 158 Revenue (Registration-1) Department dt. 14-05-2016 was not submitted in this office. As per the Government of Telangana Land Records order of 2016, provision was made for the benefit of Riyuths (agriculturists) for filing applications for validation of un-registered document ( sada sale deed) upto 31.12.2017. **Since you have not filed application as per the rules and filed on 19-07-2018 it has been rejected and you are advised to get the document registered in the office of Sub-Registrar."**

**8. A bare perusal of the order impugned dated 13.01.2020 in ROR Revision Case No.F2/1663/2019 passed by the 2<sup>nd</sup> respondent herein clearly indicates reference to certain documents filed by the 4<sup>th</sup> respondent before the 2<sup>nd</sup> respondent and the details of the said documents are extracted hereunder:**

"1) Ordinary sale deed executed by Sri Ketham Damodar S/o Narayana, dated: 21.5.2013 in favour of Revision Petitioner, Respondent No.1 to 3 for an extent of Ac.3.00 gts in Sy.No.79/A for sale consideration of Rs. 8.26,500.00.

2) Agreement of consent for registration of the land in favour of Respondent No.1 by all the purchasers dated: 21.5.2013.

3) Sale agreement dated: 05.12.2013 on white paper, executed by Respondent No.1 in favour of Revision Petitioner and Respondent No.2, acquired by him through registered document No. 5777/2013, dt. 20.5.2013.

4) Sale agreement dated: 29.7.2015 on non judicial paper worth Rs.100.00 by Respondent No.1 in favour of Petitioner and Respondent No.2 with similar contents mentioned in sale agreement dated: 5.12.2013, but this deed of conveyance is on non judicial stamp paper."

**9. This Court on perusal of the documents relied upon by the 4<sup>th</sup> respondent herein before the 2<sup>nd</sup> respondent and also the reasoning and conclusion arrived at paras 1 to 4 of the order impugned dated 13.01.2020 passed by the 2<sup>nd</sup> respondent is of the firm opinion that the Revenue Court proceeded in deciding the title of the 4<sup>th</sup> respondent based on the said documents which this Court opines that the 2<sup>nd</sup> respondent cannot do since the 2<sup>nd</sup> respondent lacks inherent jurisdiction to examine the issue of title and decide complicated questions of title and intricate facts of proof of the sale deeds. This Court opines that the order impugned dated 13.01.2020 in ROR Revision Case No.F2/1663/2019 passed by the 2<sup>nd</sup> respondent is devoid of jurisdiction and far in excess of powers**

**conferred by the Act, 1971 and the Rules 1989, this Court opines that the 2<sup>nd</sup> respondent 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.**

10. The Apex Court and the other High Courts in the Judgments referred to below clearly held that the Revenue Authorities have no power or jurisdiction to decide the complicated questions of title and possession.

1. AIR 1969 SC 1297 (para 14)
2. 1999 (4) ALD 209 Division Bench, Paras 22 to 25, 33, 34, 44 and 45
3. 1999 (5) ALT page 480, Paras 9 and 10
4. 2001 AIHC 1990 Paras 3 and 4
5. 2003 (1) ALT page 615 Paras 10 to 12
6. 2003 (2) SCC page 464 Para 6 at page 81
7. 2005 (1) ALT page 240 Paras 7 to 9
8. 2008 (8) SCC page 12 Paras 44 and 45.

11. Taking into consideration the view of the High Courts and Apex Court in the various Judgments referred to above,

this Court opines that the petitioner is entitled for the relief as prayed for in the present writ petition and the same is allowed as prayed for setting aside the impugned order dated 13.01.2020 passed by the 2<sup>nd</sup> respondent, Joint Collector, Suryapet in ROR Case No.F2/1663/2019. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

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**SUREPALLI NANDA, J**

Dated: 29.01.2024

Note: L.R. copy to be marked

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