

**THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**CRP.No.1002 of 2015**

**ORDER :**

This Revision is filed under Section 91 of the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950 [for short, 'the Act'] challenging the order dt.09.05.2014 in file No.F2/8484/2012 on the file of the Joint Collector, Nalgonda, confirming the order dt.07.04.2012 in case No.D/1815/2008 on the file of Revenue Divisional Officer, Bhongir.

**2.** Heard Sri B. Chandrasen Reddy, counsel for petitioners; Sri J. Kanakaiah, counsel for 6<sup>th</sup> respondent; and Sri K. Vinay Kumar, counsel for 9<sup>th</sup> respondent.

**3.** It is stated by all the counsel that the subject matter in this Revision is an extent of Acs.4.30 guntas in Sy.No.578 of Raigiri Village of Bhongir Mandal only which is claimed by 6<sup>th</sup> respondent; and that in respect of the other land, forming part of Acs.16.03 guntas which was allegedly subject matter of the proceedings before the 2<sup>nd</sup> respondent and 1<sup>st</sup> respondent, the matter has been resolved outside the Court.

**4.** An application under Section 38-A of the Act was

filed by petitioner nos.1, 2 and 3 herein stating that they are legal heirs of Late Kavali *alias* Pittala Venkaiah who was a protected tenant of the land of extent Acs.16.03 guntas in Sy.No.578 of Raigiri Village of Bhongir Mandal, which was purchased by their ancestors and one Samala Chandraiah; after the demise of Samala Chandraiah, the 6<sup>th</sup> respondent herein and Samala Sathaiah illegally got their names entered in the Revenue Records as pattedars and possessors of the said land; respondent nos.8 and 9 had allegedly purchased the same from 6<sup>th</sup> respondent and Samala Sattaiah who had no right therein; there was a Sada sale deed dt.12.06.1962 executed in favour of the wife of Kavali Venkaiah by name Durgamma by one Ram Rathan Pershad under which he sold an extent of Acs.40.16 guntas in Sy.Nos.577, 578, 579, 580, 594 and 597 of the said village; that ownership of the said land is deemed to be transferred to petitioner nos.1 to 3 and therefore orders be passed declaring their ownership rights in an extent of Acs.6.39 ½ guntas in Sy.No.578 in their favour; and restore possession of the same to them by evicting respondent nos.6, 7, 8 and 9 from the possession thereof.

**5.** By order dt.07.04.2012, the 2<sup>nd</sup> respondent dismissed the said application stating that he is not competent to restore possession to the protected tenants or their legal heirs, and under Section 32 of the Act only

the Tahsildar is competent to do so. As regards the other contention raised by petitioners stating that they became owners of the land pursuant to the Sada sale deed dt.12.06.1962, he held that petitioners did not file any documents to show that their ancestor Kavali *alias* Pittala Venkaiah was the protected tenant of the suit land and they had succeeded to the property as lineal descendants, except filing a copy of a land acquisition award bearing No.B/1322/65 of the Sub-Collector, Bhongir, dt.22.05.1970; that from the said proceedings, it is evident that one Nayini Ramakka, W/o.Ramaiah, referred to by petitioners as their grand-mother, was a protected tenant of land in Sy.Nos.577, 578 and 594, and she purchased the same from the pattedar, i.e., the 3<sup>rd</sup> respondent; and as such, for an extent of Acs.1.02 guntas in Sy.No.578/3 an award was passed for a sum of Rs.966/- in her favour. He held that the documents filed by 9<sup>th</sup> respondent and available on record, indicate that the ownership certificate under Section 38-E was issued in favour of Samala Chandraiah vide proceedings of ARDO(LR), Bhongir in File No.319/77 and the same was implemented in Faisal Patti of Rayagiri Village for the year 1977-78, and this was suppressed by petitioners; that when ownership certificate under Section 38-E was already issued in favour of Samala Chandraiah, he is not competent to again take up the matter under Section 38-A of the Act; and that if the petitioners are aggrieved with the

issuance of the ownership certificate under Section 38-E of the Act, they should prefer an appeal before the Joint Collector, under Section 90 of the Act.

6. Challenging the same, the petitioners filed an appeal under Section 90 of the Act before the 1<sup>st</sup> respondent which was numbered as Appeal Case No.F2/8484/2012.

7. By order dt.09.05.2014, the Appeal Case No.F2/8484/2012 was also dismissed. The appellate authority held that petitioners neither filed the copy of the Protected Tenancy Register to establish that late Kavali *alias* Pittala Venkaiah was a protected tenant nor they have filed any legal heir certificate or family member certificate, to establish that they are lineal descendants of late Kavali *alias* Pittala Venkaiah; although they filed Xerox copies of unregistered sale deed dt.12.06.1962 and the award of the land acquisition officer dt.22.05.1970, the same do not help the case of petitioners since the land acquisition award shows that Naini Ramakka, W/o.Ramaiah, was the protected tenant and Jagadish Prasad was the pattedar, the sale deed dt.12.06.1962 shows that the property was purchased by Durgamma, W/o. Kavali *alias* Pittala Venkaiah from Ram Rathan Pershad; in the absence of a Protected Tenancy Register, it is improper to decide whether the land in Sy.No.578 of Raigiri Village is protected tenancy land of

the ancestors of petitioners; the Land Reforms Tribunal, Bhongir had issued Ownership Certificate for Acs.15.03 guntas vide File No.319/77 to Samala Chandraiah, who is the ancestor of 6<sup>th</sup> respondent; and more than thirty years thereafter the petitioners have filed the application under Section 38-A of the Act seeking ownership certificate and for restoration of possession. He held that the vendor Sri Ram Rathan Pershad of Durgamma was not the pattedar and that Sri Jagadish Pershad is the pattedar. He therefore upheld the order passed by the Revenue Divisional Officer, Bhongir.

**8.** Challenging the same, the present Revision is filed.

**9.** The counsel for petitioners contended that petitioners are claiming through the Sada sale deed executed on 12.06.1962 in favour of Durgamma, the wife of Kavali *alias* Pittala Venkaiah, and claimed to be her lineal descendants.

**10.** There is no evidence placed by petitioners to establish that Kavali *alias* Pittala Venkaiah is a protected tenant. In any event, the petitioners are claiming through Durgamma under a sale deed dt.12.06.1962 allegedly obtained from Ram Rathan Pershad who is not proved to be a pattedar. Therefore, their claim is not through a protected tenant, and is through a person who is alleged

to be a pattedar.

**11.** Under Section 38 and 38-D of the Act, a protected tenant is entitled to purchase the land from the landholder and without offering it to him the landholder cannot sell it to a third party. So, even if Ram Rathan Pershad was the landholder, without offering it to the protected tenant Samala Chandraiah, he could not have sold it to Durgamma; and such a sale being contrary to Section 38-D of the Act, is void. Therefore, no rights can be claimed by petitioners under the said sale deed.

**12.** Also, the Land Acquisition Award No.B/1322/1965 dt.22.05.1970 filed by petitioners does not support their plea that Kavali *alias* Pittala Venkaiah is a protected tenant, and shows that Smt. Naini Ramakka, W/o.Ramaiah, as the protected tenant.

**13.** In this view of the matter, I do not find any error in the orders passed by 2<sup>nd</sup> respondent or the 1<sup>st</sup> respondent. Therefore, the Civil Revision Petition fails and it is accordingly dismissed. No order as to costs.

**14.** The interim order granted in the Revision stands dissolved.

**15.** As a sequel, miscellaneous petitions pending, if any, in this Revision shall stand closed.

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**JUSTICE M.S.RAMACHANDRA RAO**

Date: 14.08.2015

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