

HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

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WRIT PETITION No. 27324 of 2015

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ORDER:

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Heard the learned counsel for the petitioner, the learned counsel for the respondents and learned Government Pleader. With the consent of all the parties, the Writ Petition is disposed of at admission stage.

Aggrieved by the observations made in the order dated 16.04.2011 in Appeal Case No.B2/7741/1994 by the Joint Collector, Hyderabad while rejecting the implead application of the petitioner, the present Writ Petition is filed.

The facts in issue are as under :

Against the orders of the Inams Tribunal-cum-Revenue Divisional Officer, Hyderabad passed in Case.No.B/1638/88 dated 02.08.1994, in respect of land admeasuring Ac.4.23 gts., in S.No.223 of Kandikal village, Bandlaguda Mandal, Hyderabad District, two appeals came to be filed before the Joint Collector, Hyderabad District-cum-Inam Appellate Tribunal at Nampally, Hyderabad vide Appeal Nos.I and II. Both the appeals were clubbed and heard. Pending the said appeals, the petitioner herein filed an implead application contending that he is a necessary party to the proceedings since he was also referred to O.S. No.393 of 1999 on the file of the VIII Senior Civil Judge, City Civil Court, Hyderabad filed against Sardar Sadhusingh seeking permanent injunction restraining them from interfering with the land which is the subject matter of dispute in the present case. The suit filed by the implead petitioner i.e., O.S.No.393 of 1999 was clubbed with O.S. No.2435 of 2003 filed by Nanak Devi and four others against the Secretary to the Revenue Department and others for perpetual injunction restraining the defendants from interfering with

their possession of the land. However, later both the suits came to be rejected. The issue in the present case relates to granting of “occupancy right certificate” in respect of the land in question on an application filed before the Revenue Divisional Officer, Hyderabad, by one Sardar Sadhu Singh under Section 8 of A.P. (TA) Abolition of Inams Act. Aggrieved by the said order one Banu Begum and others preferred an appeal under Section 24 of the Act before the Collector, Hyderabad. After hearing both the parties, the Collector passed an order on 05.03.1984 remanding the matter to the Revenue Divisional Officer, Hyderabad with a direction to hold denova enquiry after hearing all the parties. Pursuant to the remand, the Revenue Divisional Officer-cum-Inam Tribunal granted O.R.C. in favour of Sardar Sadhu Singh to an extent of Ac.2.13 gts; in favour of Banu Begum and four others to an extent of Ac.1.15 guntas; and to an extent of Ac.0.35 guntas in favour of Sri Ali Khan. Challenging the said orders, Shazadi Begum and two others filed appeals before the District Collector, Hyderabad, who after hearing all the parties, set-aside the orders of R.D.O., passed in Case No.B/2386/1984 dated 29.08.1985 and directed him to conduct denovo enquiry.

A perusal of the record reveals that after remanding the matter, the R.D.O., confirmed the occupancy rights exclusively on Sri Sardar Sadhu Singh to an extent of Ac.4.23 guntas in Sy.No.223 of Kandikal village on the ground that he is in possession of the property since 1944. Challenging the said order, the appeals which are subject matter of challenge, came to be filed by two set of parties. Pending the appeals, the appellant in Appeal No.I filed a memo withdrawing his appeal. After perusing the record and considering the contentions raised, the Joint Collector again set-aside the orders passed and remanded the matter back to the R.D.O., Hyderabad for denova enquiry to determine the matter after hearing all the parties. While remanding the matter back, the implead application filed by the petitioner herein was rejected. Challenging the same, the present Writ Petition is filed.

The only point urged by the learned counsel for the petitioner is that

without assigning any valid reasons, the petitioners' application to implead and contest the matter is rejected. It is his argument that the petitioner is paying agricultural land tax and since his name is shown in Khasra Pahani for the year 1954-1955, Chesala Pahani for the year 1956 to 1958 and also in the pahani for the year 1960-1961 he is a necessary party to the proceedings. It is his case that when third parties tried to interfere with the said property, he filed O.S. No.393 of 1999. In the said proceedings, the Mandal Revenue Officer is said to have deposed stating that the revenue records contain the name of the petitioner.

On the other hand, the learned counsel for the respondents would submit that when the order of impleadment is rejected the question of making a further application to implead himself in the proceedings would not arise unless the order of rejecting the implead application is set-aside. He further submits that in view of the fact that the statute provides a remedy against an order passed by the Joint Collector, this Court is precluded from entertaining the present writ petition. He further denies the allegation of the petitioner that he is in possession of the land, and the said averment cannot be re-agitated since the issue relating to possession was already decided in O.S. No.393 of 1999 filed by the petitioner himself. According to him, the rights of the respondent No.1, as occupant or tenant is crystalised under the orders passed by the competent authority on 20.12.1979 and 02.08.1984 and the claim if any of the petitioner is only to the extent of compensation as provided under Section 18 of the A.P. (Telangana Area) Abolition of Inams Act, 1955. In view of the above, he submits that the petitioner has no *locus standi* to file the petition and even otherwise there are no merits in the writ petition.

It is to be noted that the request made by the learned counsel for the petitioner is to consider his implead application in the proceedings which are pending before the R.D.O., pursuant to the remand order passed by the Joint Collector, Hyderabad. It is true that while remanding the matter to the R.D.O., the Joint Collector dismissed the implead application made by the petitioner in Appeal Case

No.B2/7741/1994. Subsequent thereto another implead application came to be filed before R.D.O., in the remand proceedings. The said fact is not disputed by the learned counsel for the respondent. Though an implead application is pending before the R.D.O., a writ petition came to be filed before this Court, long thereafter, seeking to set-aside that portion of the order rejecting the implead petition, on the ground that no reasons are assigned for rejecting the application inspite of voluminous record being produced before the authorities. The learned counsel for the petitioner submits that due to wrong advise the petitioners made another application before the R.D.O., without seeking to set-aside the findings given by the Joint Collector in the appeal proceedings. But one fact which remains undisputed is that the implead application which has been filed by the petitioner immediately after remand is still pending for consideration before the R.D.O. Definitely the observations made in the orders passed by the Joint Collector will influence the R.D.O., in deciding the implead application unless the same are setaside. Therefore, the issue that arise for consideration is "Whether sufficient reasons are given while rejecting the application?"

As seen from the order, the only ground on which the implead application came to be rejected is as under :

"However, they admitted that the land is an estate land. The implead application filed by the third party is also not maintainable as the third party Sri Jairaj D.Bhale Rao has no right to claim right, title or possession and as such the application is liable to be rejected and is accordingly rejected."

From the findings referred to above it is clear that sufficient reasons are not shown as to how and why the implead petitioner has no right, title or possession over the property. Though the learned counsel for the respondent would contend that in view of the dismissal of the O.S., filed by the petitioner for perpetual injunction, the petitioner has no right, title and possession but the said aspect and other pleas taken by the petitioner and respondent are not reflected in the order

rejecting the implead application.

Having regard to the circumstances referred to above and since the implead petitions are pending before the Revenue Divisional Officer since 2012, it would be just and proper to direct the Revenue Divisional Officer to dispose of the implead petition in accordance with law within four weeks from the date of receipt of the order after hearing all the necessary parties.

With the above direction, the Writ Petition is disposed of. No costs. Consequently, miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Dt:16.11.2015

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