

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V. BHATT**

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W.A.No.766 OF 2015

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PC: *(Per the Hon'ble Sri Justice S.V.Bhatt)*

Heard Sri P.V.Ramana, learned for the appellants and the learned Government Pleader for Revenue (TG).

The writ appeal arises from order dated 07.06.2002 in W.P.No.9506 of 2002. Writ petitioner is the appellant.

The issue arises under the Andhra Pradesh (Scheduled Areas Ryotwari Settlement) Regulation, 1970 (Regulation II of 1970). The Settlement Officer, Bhadrachalam in the *suo motu* enquiry held under Section 9 of Regulation II/1970 rejected the claims of the appellants and respondents 2 and 3 herein. The finding recorded by the Settlement Officer reads thus:

“A perusal of village accounts i.e., adangal for faslies 13...., 1378 and village encroachment Register the schedule lands are the government lands and the claimants names did not find place in village accounts against the schedule lands. The plea of the claimants that the schedule land is a part of freehold land covered by the lease granted to them, is not proper and untenable since the schedule land is a Government land it has been surveyed in Government patch, and the names of respondents also do not find place in the village accounts, survey records and encroachment Register.

The land revenue receipts filed by the respondents advocates the faslie years 1389 to 1393. Since it is clear that the cits are not relating to crucial period.

The Tahsildar, Nugur has issued assignment orders through his proceedings No.B/2515/79, dt.27.6.1979 after the crucial date i.e., 1.7.1971.

In view of the above fact, it is clear beyond doubt that neither the claimants nor the respondents were in possession and enjoyment of the schedule lands during the crucial period. They did not establish their claim as required under the second proviso read with Sec.9 of A.P. Regu.2/70.

In the above circumstances, I disallow Ryotwari

patta for the schedule land both in favour of the claimants and the respondents. The disallowed lands are ordered to be registered as A.W.D.”

All the parties in *suo motu* enquiry, being aggrieved by the rejection order dated 20.09.1984, filed appeal under Section 9 (3) of Regulation II/70 and they are numbered as AP.Nos.7, 66 and 67/85 by the Director of Settlements, A.P., Hyderabad. Through common order dated 16.01.1997, the Director of Settlements allowed A.P.Nos.7 and 66 of 1985 filed by respondents 2 and 3 herein and A.P.No.67/85 filed by the appellants was dismissed. It is relevant to note that appellants did not file appeals before the Commissioner, Appeals, Office of the Chief Commissioner of Land Administration against grant of ryotwari patta in Appeal Nos.7 and 66/85,

but challenged the order in Appeal No.67/85 whereunder the claim for grant of ryotwari patta by appellants was rejected.

The Commissioner through order dated 21.02.2002 dismissed the appeal filed by the appellants herein. The finding of fact recorded by the Chief Commissioner reads as follows:

“Heard the arguments, considered them and perused the records. A perusal of the records reveal that the schedule lands are covered by S.Nos.2, 1 and 3/2 of Sarangapani Village of Cherla Mandal in Khammam District and that the village is governed by Regulation 2/70.

A perusal of the orders passed by the DOS clearly show that the respondents herein have established their title over the suit lands right from the year 01.09.1870 and that they have acquired the land in the year 16.01.1951 executed by Sri Kanakapalii Kotaiah. On the other hand, the appellants herein have not filed any additional documentary evidence to modify the orders passed by the DOS though the appeal is pending in this court from the year 1997 onwards. Therefore, I see no reason to interfere with the orders passed by the DOS in AP No.67/85 dt.16.01.1997 and thus the appeal is dismissed.”

Hence, W.P.No.9506 of 2002 is filed challenging the order refusing to grant ryotwari patta to the appellants.

The test for granting ryotwari patta is actual and physical enjoyment of ryoti land by a claimant from 1963 onwards. In the case on hand, the concurrent findings of fact recorded are to the effect that the appellants failed to prove the actual and physical possession of subject matter in the *suo motu enquiry* and accordingly their claims for grant of ryotwari patta were rejected.

The learned Single Judge after perusing the entire material available on record has found that the *ipse dixit* third party affidavits of Karanam or for that matter Patel of the village hardly further the case of appellants in proving possession from 1963 onwards.

Sri P.V.Ramana, learned counsel for appellants, contends that the Settlement Officer has recorded categorical findings that the names of claimant in the *suo motu enquiry* are found in the revenue records. The parties failed to prove the actual and physical possession of subject matter of the enquiry and the Director of Settlements on an erroneous view of the matter accepted the claims of respondents 2 and 3 herein and allowed Appeal Nos.7 and 66 of 1985 and by extending the same analogy, the claims of appellants ought to have been considered for grant of ryotwari patta.

We have taken note of the submission of the learned counsel for the appellants and the submission is without any merit, for the parties claimed grant of ryotwari patta in the *suo motu enquiry* under Section 9 of Regulation II/70. The Settlement Officer through common order dated 16.01.1997 rejected the claims of appellants as well as respondents 2 and 3 herein. As already noticed, three separate appeals for grant of ryotwari patta were filed by the parties. The appellants herein were unsuccessful before the Settlement Officer and the Director of Settlements, whereas the

2nd and 3rd respondents were successful before the Director of Settlements and the appeals filed by them in A.P.Nos.7 and 66/85 were allowed. With the above adjudication, the appellants are confronted with

a situation of refusing to grant ryotwari patta to them and simultaneously grant of patta to respondents 2 and 3 herein. The appellants, with a view to pressing their claim for grant of ryotwari patta, if for any reason, are aggrieved by the grant of ryotwari patta, in Appeal Nos.7 and 66/85, to respondents 2 and 3 herein, they are required to file separate appeals before the Commissioner of Appeals, Office of the Chief Commissioner of Land Administration. Admittedly, in the case on hand, appeals against Appeal Nos.7 and 66/85 are not filed. Having allowed the finding of the Director of Settlements to become final, the analogy now drawn by the appellants cannot be considered by this Court for any reason whatsoever.

Apart from the above discussion and the finding of fact recorded by the authorities below, in the considered view of this Court, the appellants have failed to make out any ground for interference.

The appeal fails and is accordingly dismissed without costs.

Consequently, miscellaneous petitions, if any pending, also stand disposed of.

ACJ

DILIP B. BHOSALE,

S.V.BHATT,

J

Date: 19.08.2015

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