IN THE HIGH COURT OF JUDICATURE AT HYDERABAD

FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

MONDAY, THE TWENTY NINETH DAY OF FEBRUARY TWO THOUSAND AND SIXTEEN

Present
HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.21554 of 2003

Between:

Amaladasu Subba Rao (died) per L.Rs,
S/o. Jaggulu, Aged about 50 years,
Scheduled Tribe,
R/o. H.No.2-115, Opp. Srinivasa Theatre,
B. Savaram Road, Razole,
East Godavari District & 2 others

.. Petitioners

AND

The Agency Divisional Officer,
Bhadrachalam,
Khammam District & 10 others

.. Respondents

The Court made the following:

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.21554 of 2003

ORDER:

This writ petition is filed for a writ of *mandamus* declaring the action of the 1st respondent in passing the orders in L.T.R.Case No.13/DGM/2002/C/937/1997, dated 14.12.2002, behind the back of the original pattadar, who is the 4th respondent herein is illegal and void and opposed to Articles 14, 19, 21 and 300-A of the Constitution of India and consequently to direct respondents 1 and 2 not to interfere with the possession and enjoyment of the petitioner's property to an extent of Ac. 6.20 cents in Survey No.73/1 and to an extent of Ac. 1.00 cents in Survey No.31/2, situated in Kasinagaram Village, Dummugudem Mandal, Khammam District.

2. The case of the petitioner is that he purchased land to an extent of Ac. 6.20 cents in Survey No.73/1 and to an extent of Ac. 1.00 cents in Survey No.31/2, situated in Kasinagaram, Dummugudem Mandal, Khammam District, from the 4th respondent, who is the original pattadar of the land, for sale consideration of Rs.1,74,200/- on 26.04.2003 and the Sale Deed was registered in his name at Bhadrachalam Registrar Office. Thereafter, in the month of May, 2003, the petitioner submitted representation to the respondent authorities for issuance of pattadar pass books in his name. The petitioner also sent the representation to the respondents through courier on 16.06.2003 and till now, no action

was taken for issuance of pattadar pass books. The petitioner filed W.P.No.13530 of 2003 questioning the action of the revenue authorities in not issuing the pattadar pass books to the petitioner. The said writ petition was disposed of by this Court on 09.07.2003. On 24.08.2003, the petitioner received a letter from the Sub-Collector's Office, Bhadrachalam, directing the Mandal Revenue Officer, Dummugudem Mandal, Khammam District (2nd respondent) to take immediate action and intimate it to the petitioner immediately. Thereafter, when the petitioner approached the 2nd respondent, for the first time he came to know about the impugned order through the second respondent, which is passed behind the back of the original pattadar i.e., the 4th respondent, who is not a party to the impugned proceedings and immediately after obtaining the copy of the impugned order, the present writ petition is filed. The petitioner submits that according to the impugned order, the 3rd respondent purchased the land in question from the 4th respondent long back and basing on the report submitted by the 2nd respondent to the 1st respondent, dated 28.03.1998, the 1st respondent passed the *ex parte* orders without giving an opportunity to the original pattadar or the person who is in actual possession of the said land and simply basing on the report submitted by the 2nd respondent, the 1st respondent came to a conclusion that the alleged transactions in between the 3rd and 4th respondents hit by Regulation 1 of 1959 read with Regulation 1 of 1970 and hence, the present writ petition is filed challenging the impugned order.

3. The 1st petitioner Amaladasu Subba Rao died on 23.11.2012 and his legal representatives were brought on record as per the orders of this Court in W.P.M.P.No.5969 of 2013 on 26.04.2013. The 2nd petitioner is the wife and the 3rd petitioner is

the son of the deceased 1st petitioner.

4. The 2nd respondent filed counter affidavit. It is stated in the counter affidavit that the 4th respondent, who is the pattadar of the subject land and also non-tribal, sold the land to the 3rd respondent through Sale Deed, dated 30.01.1984, who is also non-tribal. Basing on the said sale transaction between two non-tribals, the 1st respondent initiated LTR Case No.13/Dgm/2002 against the 3rd respondent, who is the purchaser of the land contrary to the regulations and passed ejectment orders on 14.12.2002. After passing of the ejectment order by the 1st respondent, the 4th respondent sold the land to the petitioner on 26.04.2003 and the alleged sale deed is not true and valid. After ejectment orders are passed, the 4th respondent has no right to sell the land to the petitioner. As per the regulations, the said sale has to be recognized and regularized by issuing Form K by the 5th respondent. It is not denied that the petitioner came to know about the LTR Case when he approached the 2nd respondent for issuance of pattadar pass books and title deeds. The LTR Case No.13/Dgm/2002 was initiated against the 3rd respondent and the ejectment orders were passed. It is also stated that if the pattadar has not really sold the land to the 3rd respondent, he would have approached the 1st respondent to prove his case. Admittedly, the 4th respondent has not made any efforts or filed any appeal against the orders of the 1st respondent. It is also stated that the burden lies on the 4th respondent, who is non-tribal and no such sale transaction took place contrary to the regulations. It is also stated that neither the petitioner nor the 4th respondent has taken any steps to prefer an appeal before the concerned authorities.

Therefore, the said order became final. It is also stated that while the matter was pending, one Vemula Kasi Rathnam, daughter of the 4th respondent obtained pattadar pass books and title deed for the said land suppressing the previous litigation and the sale made by her father in favour of the petitioner. After coming to know that the 2nd respondent wrote a letter to the Joint Collector, Khammam, vide office letter, dated 26.07.2011, for cancellation of ROR proceedings and also cancellation of pattadar pass books and title deed, which were issued in favour of Vemula Kasi Rathnam, the Joint Collector, Khammam District, remanded the matter to the Sub-Collector, Bhadrachalam for fresh enquiry. The 2nd respondent in ROR Case No.10/Dgm/2011 between Vemula Kasi Rathnam upheld the appeal filed by the Tahsildar, Dummugudem, by cancelling the pattadar pass books and title deed issued in favour of Vemula Kasi Rathnam in his order, dated 18.06.2013, and sought for dismissal of the writ petition.

5. The 4th respondent also filed counter affidavit. It is stated in the counter affidavit that the 4th respondent is not a party to LTR proceedings initiated by the 1st respondent in LTR Case No.13/DGM/2002/C/937/1997, dated 14.12.2002, to which neither the 4th respondent is a party nor the petitioner is having any manner of right, title, possession or interest whatsoever over the subject land. The 4th respondent admitted that he is the pattadar of the subject land and respondents 1 and 2 have issued pattadar pass books in his favour and the 4th respondent also denied having sold the lands and any sale in favour of the tribal should be approved by the 5th respondent after causing enquiry and Form-K Declaration in the prescribed Form-L either accepting the transfer authorizing the Sub-Registrar to register the document or directing the Sub-

Registrar not to register the document and unless the process is completed, the transferee will not get any right, title, possession or interest whatsoever over the immovable property in respect of which he obtained the registration with pending document number. The 4th respondent submits that the petitioner is acting as benami of the 3rd respondent and during the course of verification enquiry by the 2nd respondent, the 4th respondent has disclosed that the petitioner is benami of the 3rd respondent and, therefore, the 4th respondent intend to continue the possession of the subject land. Considering the verification report of the 2nd respondent, the 5th respondent refused the registration in favour of the petitioner in the prescribed Form-L vide proceedings, dated 27.05.2005, and the Sub-Registrar, Bhadrachalam, on receipt of the said direction of the 5th respondent, refused the registration in favour of the petitioner. It is also stated by the 4th respondent that respondents 1, 2 and 5 never interfered with the possession of the 4th respondent over the subject land under the guise of the impugned order and made any efforts to eject the 4th respondent from his possession and the 4th respondent also states that he has no knowledge about the impugned order and the same is not binding on him and is not executable against the 4th respondent by the authorities. It is stated that the 3rd respondent is no way connected to the subject land and he was never in possession of it, but he made efforts to purchase the subject land from the 4th respondent as an hand in glove of the petitioner as his benami. The possession of the petitioner was also denied by the 4th respondent and the 4th respondent also said that he is in possession of the land till the subject land was given to his daughter towards her share and presently, the 4th respondent's daughter is in possession of the subject land and the petitioner as well as the 3rd respondent are making efforts to interfere with her possession and to grab the land from her, under the guise of the interim order, dated 01.10.2003, in W.P.M.P.No.26916 of 2003 in W.P.No.21554 of 2003. It is stated that the petitioner is not at all in possession of the subject land as on the date of filing of the writ petition or as on the date of issue of the impugned order and the contention of the petitioner that the revenue authorities are trying to dispossess the 4^{th} respondent from the subject land is absolutely false and the question of his dispossession does not arise. The 1^{st} and 2^{nd} respondents never granted pattadar pass books and title deed in favour of the daughter of the 4^{th} respondent for the subject land. When the petitioner and the 3^{rd} respondent tried to interfere with the possession of the 4^{th} respondent's daughter, she has filed injunction suit against them in O.S.No.114 of 2011 and obtained temporary injunction order, dated 11.07.2011, in I.A.No.84 of 2011, on the file of the learned Sub-Divisional Magistrate, Mobile Court, Bhadrachalam, in accordance with the A.P. Agency Rules, 1924. Against the same, the petitioner filed C.R.P.No.3100 of 2011 before this Court and the same was disposed of by directing the parties to maintain *status quo* with regard to the possession as on the date of the order, dated 27.09.2011, and by the proceedings, the 4^{th} respondent's daughter is continuing in possession. Apart from that, the petitioner also filed ROR Appeal No.1/DGM/2011 before the 1^{st} respondent questioning the grant of pattadar pass books issued to her, which was disposed of by the 1^{st} respondent by the order, dated 04.06.2011, directing to approach the competent civil Court for declaration of rights and till such time directing to maintain *status quo* and accordingly, the 4^{th} respondent's daughter is continuing in possession as on date and the petitioner has not filed any suit before the competent civil Court so far in respect of the subject land

and sought for dismissal of the writ petition.

6. Respondents 6 to 11 filed counter affidavit. In the counter affidavit, it is stated that the petitioner obtained *status quo* order, dated 01.10.2003, and cultivating the land all these years without any authority. It is further stated that respondents 6 to 11 herein are landless poor and belongs to Scheduled Tribe community and the 2nd respondent after an enquiry, assigned the land in Survey No.31/2 and distributed Ac. 6.20 cents of land to respondents 6 to 11 and also issued final patta certificates (D-Form) in favour of respondents 6 to 11 in the year 2004 and also issued pattadar pass books and title deeds in favour of respondents 6 to 11. It is further stated that respondents 6 to 11 are shown in the Revenue Records as pattadars since 2004. It is further stated that the first petitioner had filed a suit in O.S.No.213 of 2007, on the file of the Sub-Divisional Magistrate, Special Assistant Agent, Mobile Court, Bhadrachalam, Khammam District, and obtained *ex parte* injunction order against respondents 6 to 11 for an extent of Ac. 2.60 cents in Survey No.31/2, situated at Kasinagaram Village, Dummagudem Mandal, Khammam District. It is stated that the 1st respondent had initiated LRT Case against the 3rd respondent in LTR Case No.13/DGM/2002, who purchased the land contrary to the Scheduled Area Land Transfer Regulations, 1959, and passed eviction orders on 14.12.2002 and respondents 6 to 11 sought for dismissal of the writ petition.

7. Learned counsel for the petitioners submits that the 4th respondent, who sold the lands to the petitioner on 26.04.2003, was not issued any notice while passing the impugned order. The petitioner has submitted a representation to the respondent authorities for issuance of pattadar pass books in his name, but the same was refused, as the said sale has to be recognized and

regularized by issuing Form K by the 5th respondent. It is also submitted that the petitioner was also not put on notice about the impugned proceedings. Learned counsel for the petitioners submits that the petitioner came to know about the impugned proceedings only when the petitioner approached the 2nd respondent for issuance of pattadar pass books based on the Sale Deed executed by the 4th respondent in favour of the petitioner on 26.04.2003. As such the impugned order is liable to be set aside.

8. On the other hand, the learned Assistant Government Pleader submits that the so-called sale made by the 4th respondent in favour of the petitioner on 26.04.2003 is much later to the ejectment orders by way of the impugned proceedings. As such the 4th respondent has no right to sell the land in favour of the petitioner and after enquiry, the 5th respondent refused to approve the sale made by the 4th respondent in favour of the petitioner, which is in accordance with law. Learned Assistant Government Pleader also submitted that by the time ejectment orders were issued, the petitioner is not in picture as such he has no *locus standi* to maintain the writ petition. The ejectment orders have become final as the 4th respondent also has not filed any appeal against the same. If the 4th respondent has any grievance, he should have filed appeal before the respondent authorities.

9. Learned counsel for respondents 6 to 11 also states that after the ejectment orders were passed, they were given pattadar pass books in their favour being Scheduled Tribes and in pursuance of the same, the pattadar pass books and title deeds were granted. In the meanwhile, the 1st petitioner filed the present writ petition and obtained stay. Learned counsel further submits that

the pattas granted in favour of respondents 6 to 11 cannot be disturbed since the impugned ejectment orders are passed after issuing notice to respondents 3 and 4 and they have not questioned and he also adopted the arguments of the learned Assistant Government Pleader.

10. In this case, it is to be seen that admittedly, the 4th respondent is the owner of land to an extent of Ac. 6.20 cents in Survey No.73/1 and to an extent of Ac. 1.00 cents in Survey No.31/2, situated in Kasinagaram, Dummugudem Mandal, Khammam District, he was granted Patta No.112 and pattadar pass books by the revenue authorities and when the 4th respondent sold the lands to the 3rd respondent, basing on the said Sale Deed, dated 30.01.1984, initiated proceedings under Section 3 of the A.P. Scheduled Areas Land Transfer Regulations, 1959, read with Regulation 1 of 1970. Since the sale took place between two non-tribals i.e., respondents 3 and 4 and basing on the report of the 2nd respondent, dated 28.03.1998, and basing on the Sale Deed, dated 30.01.1984, executed between the 4th respondent and 3rd respondent and after the enquiry, the impugned order, dated 14.12.2002, was passed directing the ejectment of the 3rd respondent from the property. Admittedly, no appeal is preferred against the proceedings either by the petitioner or by 3rd and 4th respondents. It is the 4th respondent who should be aggrieved, if he was in possession of the said land as stated by him in the counter affidavit, but no appeal is filed. The petitioner was not in picture at the time of passing of the impugned order. Even according to the petitioner, the petitioner purchased the subject lands on 26.04.2003. As such, issuance of notice to the petitioner at the relevant point of time does not arise. However, the 4th respondent

has also not come forward to file any writ petition against the impugned proceedings alleging violation of principles of natural justice. In fact, in the impugned order itself, the 3rd respondent has made an endorsement that he is not in possession of the lands. Even the 3rd respondent has not filed any appeal and an endorsement was made by the 3rd respondent in the impugned order stating that he is not in possession. Either the 3rd respondent or the 4th respondent, who are affected by the impugned order, have not preferred any appeal or any writ petition before this Court, which shows that the impugned order has become final and it is not known how the petitioner can challenge the same by stating that the impugned order is passed behind the back of the 4th respondent. Though the writ petition is filed by obtaining leave, that does not mean that the writ petition has to be allowed. The 5th respondent refused to approve the Sale Deed, dated 26.04.2003, it shows that the petitioner has not derived any rights and the so-called sale made by the 4th respondent in favour of the petitioner can be recognized only when the same is approved by the 5th respondent by issuing Form-K as per Rule 18 of the LTR Rules framed under the Regulations. In the present case, even according to the petitioner, the same is refused by the 5th respondent. It is not known how the petitioner derived title and right to challenge the eviction orders. When the same is not recognized or approved by the 5th respondent, it is no sale in the eye of law. By any stretch of imagination, the petitioner has no *locus standi* to challenge the impugned proceedings. Thus, I do not see any merit in the writ petition and the writ petition is liable to be dismissed.

11. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in

this writ petition, shall stand closed.

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A.RAJASHEKER REDDY, J

Date: 29th February, 2016

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HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.21554 of 2003

Date: 29th February, 2016

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