

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

HON'BLE SRI JUSTICE M.S.K.JAISWAL

Writ Petition No.25147 of 2016

Between:

G.Prabhavathi,

W/o Srinivas

..... Petitioner

And:

Boyini Sarojini Dasaradha Ram, since
died per LRs' – B.Uma Bala Krishna
and 11 others.

....Respondents

Counsel for the petitioner: Mr. V.Hari Haran

Counsel for respondent No.1: Mr. G.Subhash
for Mrs. A.Anasuya

Counsel for respondent Nos.8 to 12: GP for Revenue (TS)

The Court made the following:

ORDER: *(per Hon'ble Sri Justice C.V.Nagarjuna Reddy)*

This Writ Petition is filed feeling aggrieved by order, dated 10.4.2014, in I.A(SR).No.34 of 2014 in LGA(SR).No.31 of 2014 on the file of the Special Court under the Andhra Pradesh Land Grabbing (Prohibition) Act, Hyderabad (for short 'the Special Court').

The petitioner averred that respondent No.1 has filed LGOP.No.623 of 2001 on the file of the Special Tribunal under A.P. Land Grabbing (Prohibition) Act, 1982-cum-I Additional District Judge, Ranga Reddy District, at L.B.Nagar, Hyderabad (for short 'the Special Tribunal') alleging that she is the absolute owner of Plot bearing No.28, admeasuring 502 square yards, situated at Lingoiguda Village, Saroornagar Mandal, Ranga Reddy District having purchased the same under registered sale deed, dated 11.7.1967, from respondent No.2; that the land admeasuring 202 square yards forming part of Plot No.28 part in Survey Nos.69 and 70 located at Bhagyanagar Colony, Lingoiguda, Saroornagar Mandal, L.B.Nagar Municipality was purchased by one Keshari Bai from one Syeda Taskeen Fathima under registered sale deed, dated 24.7.1996; that the petitioner's vendor purchased the same from the said Keshari Bhai under registered sale deed, dated 12.02.1997; that after obtaining

permission for construction of house from L.B.Nagar Municipality on 06.6.1997, her vendor constructed a house and the same was assessed to tax which was paid for the year 1998-99; and that thereafter, the petitioner has purchased the said house from respondent No.5 under registered sale deed, dated 29.10.1998. The petitioner further averred that suppressing the afore-mentioned facts, respondent No.1 has filed the above-mentioned LGOP impleading the petitioner's vendor as respondent No.4, but not impleading her, who is the reputed owner. She has further averred that respondent Nos.2 to 5 herein, who are respondent Nos.1 to 4 in the LGOP, were not served with notices; that the Special Court has set them *ex parte* and by order, dated 08.10.2012, it has allowed the said LGOP, while dismissing the same against respondent Nos.5 and 6 therein, who are respondent Nos.6 and 7 in this Writ Petition. It is the further pleaded case of the petitioner that respondent No.9 addressed letter, dated 05.12.2013 to respondent No.10 enclosing the order, dated 08.10.2012, in LGOP.No.623 of 2001 and directed him to deliver possession of the property to respondent No.1; that on coming to know about the said fact, the petitioner filed LGA(SR).No.31 of 2014 before the Special Court; and that as she was not a party to LGOP.No.623 of 2001, she has filed I.A.(SR).No.34 of 2014 for leave to file appeal,

which was dismissed by the Special Court by the impugned order. The petitioner also sought to explain the delay in filing this Writ Petition by stating in paragraph No.15 of the affidavit that she has entrusted the matter to an Advocate, who, in turn engaged a senior advocate; that whenever she called the junior advocate, he informed her that the Special Court is not functioning and that therefore, the issue could not be taken up further; that in the first week of July, 2016, she came to know about the passing of the order in I.A(SR).No.34 of 2014 by the Special Court; and that therefore, the delay was caused in filing this Writ Petition.

After hearing both sides, we have passed an order on 04.11.2016, dismissing the Writ Petition. However, before signing the same, we have realised that since the judgment of the Special Tribunal operates as a judgment in *rem*, the petitioner is not entitled to file a civil suit questioning the order of the Special Tribunal and therefore, we have posted the case under the caption “for being mentioned”. At the request of the learned counsel for respondent No.1, we have adjourned the case to enable him to address the Court on merits. Accordingly, today, we have heard the learned counsel for both the parties.

The Special Court observed in the impugned order that the petitioner claims that she has purchased 202 square yards in

Plot No.28, which was the subject matter of the LGOP, from a third party, who in turn, has purchased it from another person. The Special Court further observed that the petitioner's vendor's vendor was not at all concerned with the application schedule land and that therefore, they do not appear to have any right over the said property.

It is the common case of both the parties that the petitioner's vendor's vendor and respondent No.1's vendor is common. Thus, both the parties are claiming title through a common owner. The Special Court has, therefore, fallen into an error in observing that the petitioner's vendor or his vendor do not appear to have any right over the said property.

The limited issue before the Special Court was whether the petitioner had any interest over the schedule land to enable her to maintain the LGA against the judgment of the Special Tribunal in the LGOP.No.623 of 2001 filed by respondent No.1. The admitted fact remains that she has purchased the property from respondent No.5 under a registered sale deed in the year 1998 along with a house allegedly constructed therein by the latter.

It is also an admitted fact that respondent No.5, who has lost interest over the property with the execution of the sale

deed in favour of the petitioner as far back as the year 1998, has not even contested the LGOP.

Under Sub-section-(4) of Section-7A of the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982, every finding of the Special Tribunal with regard to any alleged act of land grabbing shall be conclusive proof of the fact of land grabbing, and the finding of the Special Tribunal with regard to the determination of the title and ownership to, or lawful possession of, any land grabbed shall be binding on all persons having interest in such land.

Thus, irrespective of the fact that the petitioner was not a party before the Special Tribunal in the LGOP filed by respondent No.1, the judgment rendered therein operates against her also and the only legal remedy available to her is to question the judgment in the said LGOP by filing an appeal.

In our opinion, the Special Court has failed to examine the right of the petitioner to file appeal from proper perspective and dismissed her application for leave in a perfunctory manner without assigning proper reasons.

For the afore-mentioned reasons, we hold that the petitioner has a right to file appeal against order, dated 08.10.2012, in LGOP.No.623 of 2001 on the file of the Special Tribunal. Accordingly, the impugned order is set aside

and I.A(SR).No.34 of 2014 in LGA(SR).No.31 of 2014 on the file of the Special Court is allowed.

At the hearing, we are informed that though the Special Court is abolished by both the State Governments, the Registry of the Special Court is still functioning for the purpose of transmitting the pending files to the respective Courts.

The Registry of the Special Court is directed to assign regular number to LGA(SR).No.31 of 2014 filed by the petitioner and transmit the same to the competent Court as per G.O.Ms.No.113, Revenue (Land Matters Department, dated 01.6.2016, issued by the Government of Telangana as, the subject property is situated in the State of Telangana.

As a sequel to disposal of the Writ Petition, interim order, dated 28.7.2016, is vacated and WPMP.No.31039 of 2016 and WVMP.No.3653 of 2016 are disposed of as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE M.S.K.JAISWAL

24th November 2016

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