

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY
WRIT PETITION Nos.24716, 23149 and 26006 of 2003
And WP.No.17499 of 2005

COMMON ORDER:

In all these writ petitions, the petitioners challenged the impugned proceedings dated 30-08-2003 in case No.D5/20/2001, wherein the Joint Collector, Ranga Reddy exercised *suo motu* power under Section 9 of A.P. Rights in Land and Pattadar Pass Books Act, 1971 (for short "the Act") and basing on the report of the then Mandal Revenue Officer, Rajendranagar dated 21-12-2000 and ordered for deletion of entries made in favour of the one Abdul Gafoor and his predecessors-in-title in revenue records.

It is suffice to refer to the facts in WP.No.24716 of 2003, as the facts in other writ petitions are also similar and they also claim subject lands in respective writ petitions through Abdul Gafoor like petitioner in W.P.No.24716 of 2003 and the main question that arises for consideration in all the writ petitions is, whether the Joint Collector can entertain revision by exercising *suo motu* power under Section 9 of the Act after long lapse of time.

The case of the petitioner in WP.No.24716 of 2003 is that he is the owner and possessor of land to an extent of 22-17 guntas forming part of Sy.Nos.166 and 167 of Kokapet Village, Rajendra Nagar Mandal, Ranga Reddy District. Originally, one Sri Abdul Gafoor, s/o. Mohd. Hyder Ali,

R/o.Narsingi, Hyderabad was the absolute owner and possessor of land in Sy.Nos 166 and 167 admeasuring Ac.50-18 guntas situated at Kokapet Village, Hyderabad and his name was noted as pattadar and possessor in kasra phani for the year 1954-55 and also in the subsequent years continuously, till he sold away the said lands in favour of various purchasers in various extents. Said Abdul Gafoor obtained permission vide proceedings in D.Dis/A3/10032/1964, dated 20-07-1964 to alienate part of the land admeasuring Ac.22-17 guntas in an application filed under Sections 47 and 48 of Hyderabad Tenancy and Agricultural Lands Act, 1950 (for short "Hyderabad Tenancy Act") and alienated the same in favour of one Mukundlal Rathi and her name was mutated in the revenue records. Said Mukundlal Rathi filed application under Sections 47 and 48 of the Hyderabad Tenancy Act for alienating the said lands and obtained permission vide proceedings in D.Dis.B3/5018/1965, dated 27-03-1966. Accordingly, a sale deed was executed by Mukundlal Rathi in favour of the petitioner vide document bearing No.221/1966, dated 15-03-1966. Thereafter, the name of the petitioner was recorded in revenue records and he is in physical and vacant possession by raising gardens and also by establishing poultry farm. Apart from the said lands, the petitioner also purchased an extent of Ac.10-80 cents in Sy.No.165 of Kokapet Village and 50 acres of agricultural land out of Sy.Nos.289, 290, 292 (part), 293 (part) 294 (part) situated at Poppalguda village in the Hyderabad West Taluq,

Hyderabad district now under Rajendra Nagar Mandal, Ranga Reddy District in his name and in the names of his family members. The petitioner filed declaration before the concerned authority by showing the present lands under A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (for short “the A.P. Land Reforms Act”) in addition to other lands and the same was accepted and held that the petitioner is holding land 0.2905 in excess of standard holding. In pursuance to the same, the petitioner surrendered Ac.18-82 cents of land in Sy.Nos.290 and 292 of Kokapet Village, Rajendra Nagar Mandal, while retaining the subject lands. But, surprisingly the petitioner herein and others were issued notice by the 1st respondent on 17-01-2001 purporting to exercise *suo motu* revision power under Section 9 of the Act in respect of Ac.41-32 guntas forming part of Sy.No.166 of Kokapet Village. Accordingly, the petitioner filed objections before the 1st respondent and the 1st respondent passed the impugned order on 30-08-2003 for deletion of the name of Abdul Gafoor and predecessors in title of the petitioner. Aggrieved by the same, the present writ petitions are filed.

Counter is filed by the 3rd respondent stating that the subject lands are classified as government lands as per original *sethwar* and *pahanies* for the year 1950, 1951 and 1952-53. Any sale or purchase of the government land is not valid. It is also stated that the name of Abdul Gafoor was recorded as *pattadar* in the year 1954-55 without any valid orders from the competent authority and said entries have no legal sanctity.

The sales made by Abdul Gafoor or his vendees are not valid in the eye of law. The so-called permission given by the Tahsildar under Sections 47 and 48 of the Hyderabad Tenancy Act is not valid. It is also stated that the Tahsildar has no authority to issue such permission over the government land. Basing on the report dated 21-12-2000 filed by the Tahsildar, the present proceedings have been issued and sought for dismissal of the writ petition.

Heard Sri Vedula Venkata Ramana, Senior Counsel for the petitioners, Sri V.Rama Krishna Reddy, Counsel for the petitioners and Special Government Pleader on behalf of Advocate General.

Sri Vedula Venkata Ramana, Senior Counsel submits that by virtue of Section 12 of the Act, this Act is not applicable to the Government lands. He also submits that the Act came into force in the year 1989, as such the same has no application in respect of entries made prior to the commencement of the Act. He also submits that Kasra Pahani is a document of title, as such, the same cannot be altered after long lapse of time. He also submits that *suo motu* revision powers cannot be exercised after long lapse of time that too for alteration of entries made in the year 1954-55.

Sri V.Rama Krishna Reddy appearing for the petitioners in WP.No.24176 of 2003 adopted the arguments of Senior Counsel and submits that the petitioner in WP.No.24176 of 2003 also filed declaration under the provisions of the A.P.

Land Reforms Act, 1977 by declaring the subject lands in the writ petition along with other lands and the same was accepted and the proceedings to that effect became final. As such, the respondents are estopped from revising entries in revenue records.

Both the counsel relied on the judgments in **Gujarath v. Patil Raghav Natha and others¹**, **Ibrahimpattam Taluk Vyavasaya Cooli Sangam v. K.Suresh Reddy²**, **Santoshkumar Shivgonda Patil v. Balasaheb Tukaram Shevale³**, **State of A.P. v. T.Yadagiri Reddy⁴**, **Joint Collector, R.R.District v. D.Narsing Rao⁵** and **Prathap Jungle Resorts Pvt. Ltd., v. Joint Collector, Hyderabad⁶**.

On the other hand, learned Special Government Pleader submits that there are no valid orders granting mutation in favour of Abdul Gafoor and the sale made by him is not valid in the eye of law. As such, *suo motu* power is exercised under Section 9 of the Act revising mutation order, after submission of the report by the then Tahsildar stating that the subject lands are government lands and also pleaded that in case this Court is inclined to quash impugned proceedings liberty may be given to take steps permissible under law.

Admittedly, the entries in revenue records are in favour of Abdul Gafoor and the names of predecessors-in-title of the petitioners have been recorded in revenue records, till they sold

¹ 1969(2) Supreme Court Cases 187

² (2003) 7 Supreme Court Cases 667

³ (2009) 9 Supreme Court Cases 352

⁴ (2008) 16 SCC 299

⁵ (2015) 3 Supreme Court Cases 695

⁶ 2009 (1) ALD 401

the lands in favour of petitioners predecessors. The sales in favour of petitioners were made after obtaining permission under Section 47 and 48 of the Hyderabad Tenancy Act. Names of petitioners have been entered in revenue records and pattadar passbooks were also issued and the petitioner in WP.No.24176 of 2003 also filed declarations under the A.P. Land Reforms Act and the same were accepted vide proceedings in C.C.No.1236/W/75, dated 07-02-1978 and the petitioners surrendered excess lands. The same is not in dispute. Admittedly, the sales in favour of the petitioners and predecessors in title of the petitioners is through registered sale deeds and the revenue authorities having accepted the same in the declarations filed under the A.P. Land Reforms Act. Having accepted the declaration filed by the petitioners, the respondents are estopped from initiating suo-motu proceedings under Section 9 of the Act that too after long lapse of 48 years for alteration of revenue records in pahanies for the year 1954-55.

Section 9 of the Act reads as follows:

The Collector may either suo motu or on any application made to him, call for and examine the record of any Recording Authority, Mandal Revenue Officer or Revenue Divisional Officer under Sections 3, 5, 5A or 5B, in respect of any record of rights prepared or maintained to satisfy himself as to the regularity, correctness, legality or propriety of any decision taken, order passed or proceedings made in respect thereof and if it appears to the Collector that any such decision, order or proceedings should be modified, annulled or

reversed or remitted for reconsideration, he may pass orders accordingly.

Provided that no such order adversely affecting any person shall be passed under this Section unless he had an opportunity of making a representation.

A reading of Section 9 of the Act goes to show that the 1st respondent has power to initiate proceedings suo motu, but the same cannot be done after long lapse of time. In **Joint Collector, R.R.District V D.Narsing Rao** (5 supra), the Supreme Court held as under:

“Delayed exercise of revisional jurisdiction is frowned upon because if actions or transactions were to remain forever open to challenge, it will mean avoidable and endless uncertainty in human affairs, which is not the policy of law. Because, even when there is no period of limitation prescribed for exercise of such powers, the intervening delay, may have led to creation of third party rights, that cannot be trampled by a belated exercise of a discretionary power especially when no cogent explanation for the delay is in sight. Rule of law it is said must run closely with the rule of life. Even in cases where the orders sought to be revised are fraudulent, the exercise of power must be within a reasonable period of the discovery of fraud. Simply describing an act or transaction to be fraudulent will not extend the time for its correction to infinity; for otherwise the exercise of revisional power would itself be tantamount to a fraud upon the statute that vests such power in an authority.

In **Ibrahimpatnam Taluk Vyavasaya Cooli Sangam** cited (2 supra), the Apex Court held :

The non-official respondents have taken stand that they had filed declarations before the Ceiling authorities under the Land Ceiling Act, 1973 showing the lands in question as their holdings and the orders were passed on such declarations; unsettling such position may mean even reopening the ceiling

proceedings, which have become final long back. The Division Bench of the High Court in this regard in the impugned order has observed that "Exercise of such power after 14 to 15 years is ipso facto unreasonable. There is absolute no explanation before us as to why though Section 50B was amended in the year 1979, the Joint Collector waited till 1989 to invoke the power. Every man has the legitimate expectation of regarding a set of things, or facts which have continued over a period of time, to have become settled so that he can plan his future course of action on the basis of such acceptable situation. Unsettling such facts after long delay upsets not only his entire programme but also affects in the long run the society itself. Even in the present case, the respondents have taken the stand that they filed returns before the ceiling authorities under the Ceiling Act, 1973, showing these lands as their holdings and that such plea had been upheld. Unsettling such position may mean even reopening the ceiling proceedings, which must have become final long time back."

In view of the above facts and circumstances and law laid down by the Apex Court, I am of the opinion that the 1st respondent cannot initiate proceedings under Section 9 of the Act after long lapse of 48 years and unsettle the settled things, which became final. The ratio laid in the above judgments squarely applies to the facts of the present case.

Though Government Pleader pleaded for giving liberty to initiate appropriate proceedings, but declaration filed under A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 by predecessors-in-interest of petitioners became final and if any such permission is given it amounts to allowing reopening the ceiling proceedings which have become final and sales were

affected after obtaining permission. No fraud is pleaded by laying factual foundation to that effect. In view of the same, impugned order is set aside.

Accordingly, these writ petitions are allowed. As a sequel to the disposal of these petitions, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

15-11-2016

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