

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

CIVIL REVISION PETITION Nos.3197 & 3225 of 2015

COMMON ORDER:

Both these revisions are preferred by the same petitioners against a common order passed by the Joint Collector-II, Ranga Reddy District on 27.06.2015.

Sri Sardar Kartar Singh, Sri Sardar Surender Singh, Sri Sardar Gurmeeth Singh, Smt. Pavinder Kaur, Smt.Manjeet Kaur, Smt.Paramjeeth Kaur daughters of Jhanda Singh and Sardar Harban Singh have preferred 2 independent revision petitions under Section 9 of Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act') before the said Joint Collector, Ranga Reddy District, aggrieved inturn by the orders passed on 13.02.2015 by the Special Grade Deputy Collector and Revenue Divisional Officer, Rajendranagar Division, confirming the orders passed by the Deputy Collector & Tahsildar, Rajendranagar on 31.12.2013.

The contentious issue in these cases is concerned about land of an extent of Ac.1-20 guntas situated in survey No.2 (peradu) Attapur Village, Rajendranagar Mandal, Ranga Reddy District.

Heard Sri D.Prakash Reddy, learned senior counsel on behalf of Sri A.Satyanarayana Rao, learned counsel for the petitioners and Sri B.Vijaysen Reddy, learned counsel for the respondents.

The petitioners in these revisions claim to be the children of one Sardar Deva Singh. One Smt. Moti Bai appears to have owned land of an extent of Ac.1-20 guntas in survey No.2 of Attapur Village, Ranga Reddy District. Smt.Moti Bai died intestate. The whole question is who are the real successors of the said Smt. Moti Bai. Several personal claim, now, to be the real successors of Smt.Moti Bai. The petitioners herein have filed civil suit O.S.No.459 of 2009 on the file of Additional Junior Civil Judge-cum-XVII Metropolitan Magistrate, Cyberabad, Rajendranagar, Ranga Reddy District, seeking a declaration as legal representatives of Sri Deva Singh, who is grand son of Smt. Moti Bai

W/o. Jhanda Singh. Sri Sardar Narpath Singh S/o. late Gopal Singh is impleaded as defendant to that suit as he started asserting that it is he who is the true successor. That suit O.S.No.459/2009 was decreed on 03.02.2010. It appears an appeal was preferred by one set of respondents belonging to the branch of Sardar Gopal Singh after obtaining leave against the judgment and decree passed in O.S.No.459 of 2009. That appeal is pending. It is claimed that late Moti Bai is not the wife of Jhanda Singh but she is wife of one Gopal Singh. While the petitioners in the revision claim that the true owner of the land Smt. Moti Bai W/o. Jhanda Singh died somewhere in the year 1967 the opposing parties claim that Smt. Moti Bai W/o. Gopal Singh is the true owner of the land and she died in the year 1992. Each is making contentious statements about the marital status of the true owner of the land Smt. Moti Bai and they are also disputing each others right of succession to Smt. Moti Bai. These issues bring out that only after ascertaining the identity of the true owner of the land in question, the question of succession gets settled.

In view of the dispute relating to succession/survivorship between both sets of the parties, what the Joint Collector, Ranga Reddy District did was to direct the MRO to record in the revenue records, in both pattadar and occupant columns, with regard to land in question, as “disputed” and went further and directed that the proceedings be given effect with retrospective effect. This is what has been seriously opposed by the learned senior counsel Sri D.Prakash Reddy.

Sri D.Prakash Reddy would point out that on earlier occasion when the Joint Collector, Ranga Reddy District passed orders on 11.12.2000, in exercise of Revision Powers under Section 9 of the Act, 2 writ petitions have been instituted in this Court, W.P.Nos.1214 & 14198/2001 calling in question the validity and legality of the said order dated 11.12.2000. W.P.No.1214/2001 was instituted by Sardar Deva Singh, the father of the present petitioners while

W.P.No.14198/2001 was instituted by Sri Sardar Narpath Singh, who was impleaded as defendant to O.S.No.459 of 2009. Sardar Deva Singh has set up the case that land, of an extent of Ac.1-20 guntas in survey No.2 (peradu) of Attapur Village, Rajendranagar Mandal, Ranga Reddy District was originally belonging to Moti Bai W/o. Jhanda Singh and that she died somewhere during 1961 leaving behind her daughter Raju Bai and that Sardar Deva Singh is the only son of Raju Bai. It is further asserted that the mother of Sri Deva Singh, said Raju Bai died somewhere in the year 1979. That is how Sardar Deva Singh, claims to have succeeded to the estate of Smt.Moti Bai. The pahani of 1950 reveals the name of Moti Bai as pattadar of the land in question, but however, the entries in revenue records for the years 1975-76, 1976-77, 1982-83, 1984-85, 1987-88 to 1996-97, show as Moti Bai as Lawaris. This according to Sardar Deva Singh was the result of a mistake committed by Patwari of the village and it was noticed by Sardar Deva Singh. Based on those Revenue entries, the Tahsildar, Rajendranagar, within which Taluq, Attapur Village was falling, passed orders on 27.10.1980 directing the occupants of land in survey No.2 and 11 and other survey numbers to handover the possession of the land as the lands were treated as 'escheat lands'. Sri Shabad Mallaiah, who was an occupant of the land at that time and others filed W.P.No.5553/1980 and the High Court quashed the order dated 27.10.1980 of the Tahsildar, Rajendranagar Mandal with liberty to the State Government to file a suit under Section 8 of Escheat and Bona Vacantia Act, 1974 for recovery of the possession of the land. However, the State Government has not filed any such civil suit. At that point of time Sardar Deva Singh filed a petition before the RDO, Ranga Reddy District for effecting mutation of lands in his favour. The RDO intum directed the MRO, Rajendranagar to conduct enquiry and submit a report. The MRO conducted the necessary enquiry and examined Shabad Mallaiah and other possessors/occupants of the neighbouring

lands. Based upon the fact finding enquiry of the MRO, the RDO, Chevella Division passed orders on 16.12.1995 directing the MRO to take action for mutation on the basis of succession in accordance with Rules. Since the MRO has not carried out the directions of the RDO, W.P.No.24701/1998 was instituted and the High Court by its order dated 02.09.1998 directed the MRO to consider and dispose of the applications seeking mutation within a period of 2 months and at that stage a rival claim has been set up by one Sri Nanak Singh and Sri Sardar Narpath Singh. Hence, the MRO once again conducted the enquiry and passed an order on 18.09.1999 allowing the petition filed by Sardar Deva Singh for mutation and ordered to make entries in the revenue records accordingly, in exercise of the power available to him under Section 5 of the Act. Hence, Sardar Deva Singh was subsequently issued with a pattdar pass book in his favour duly rejecting the parallel claim set up by Sardar Narpath Singh and Sri Nanak Singh, whose claims are positively found to be fictitious claims. Against this order of the MRO, straight away a revision was preferred before the Joint Collector and to rectify the entries in revenue records a separate application was also filed. Both these applications were decided by the Joint Collector on 11.12.2000. By that order Joint Collector has set aside the orders passed by the MRO on 18.09.1999 and ordered the MRO to take custody of the land in question under Section 9 of AP Escheat Bona Vacantia Act. It is against these orders of the Joint Collector dated 11.12.2000 the aforementioned 2 writ petitions viz. W.P.No.1214 and 14198 of 2001, one by Sri Deva Singh and another by Sri Narpath Singh came to be filed.

Interestingly some implead applications have been filed by some other 3rd parties parallely claiming title to the land in question. During the course of the judgment, the High Court found fault with the directions issued by the Joint Collector to the MRO to take custody of the land and held that such a direction is wholly illegal and runs counter not only to the provisions of the Act but also goes against the

directions issued by the High Court earlier in W.P.No.5553/1980.

It is also appropriate to notice the other findings recorded in the above judgment:

“It is not in dispute that the land originally was a patta land and there is not a single document to show that when the land became lawaris land. Therefore, as on today the nature of the land cannot be said to be lawaris. The learned Government Pleader however submits that since the entries already existed in the revenue records it has to be treated as lawaris until such time entry is cancelled. This contention has to be rejected at the threshold. Once this court held that the Government has no jurisdiction to issue notice until and unless the procedure contained under Section 8 is followed and they cannot have any right to occupy the land merely because the land was not cultivated and recorded as padava. If the land is kept fallow (padava) it does not confer any right on the Government to occupy it.”

“Therefore, to the extent that the direction given by the Joint Collector to the Mandal Revenue Officer to take custody of the land is wholly illegal and run counter not only to the provisions of the Act but also it goes against the direction issued by this Court in W.P.No.5553 of 1980. Thus the order to the extent is liable to be set aside as the same is without jurisdiction. Accordingly, the same is set aside.”

“When both the parties are claiming the property by succession being the legal representatives of Moti Bai it would not be appropriate for the revenue authority to decide the same and it has to be decided in an appropriate court of law. It is only when the succession becomes final that can be brought before the Mandal Revenue Officer for mutation of revenue records. The Joint Collector has quite rightly observed that in case of claim for succession, the Mandal Revenue Officer ought not to have conducted an enquiry and decided one way or the other and that is what Section 4 also contains and the order of the Joint Collector observing that it is open for the parties to approach the Civil Court to seek succession in respect of Moti Bai cannot be said to be illegal and contrary to law and it is well within the parameters of R.O.R. Act.”

It is not in dispute that Sardar Deva Singh was granted passbook under R.O.R. Act but that issuance of passbook is not final, but it is only prima facie documents been placed before this court to infer that Sardar Deva Singh was given passbook under the R.O.R. Act. It is therefore necessary that the possession should continue in his hands until the succession becomes final between the parties. However, it is made clear that mere possession of land by him by virtue of the order does not confer any right or title on the petitioner. The Mandal Revenue Officer shall not interfere with the possession and enjoyment of the land by Sardar Deva Singh until their dispute between Sardar Deva Singh and Sardar Narpath Singh is settled in a

court of law.”

(Emphasis is played)

The above judgment has become final. The legal principle set out therein does not call for a 2nd opinion. Under the ROR Act, it is not within the jurisdiction of the revenue authorities to decide as to which branch of late Moti Bai has right to succeed to the land in question. The attempt made by the State Government to declare Moti Bai as Lawaris and then take custody of the land in question has failed. But, obviously, to preserve the land, the MRO was injuncted from interfering with the possession of land lying with Sri Deva Singh.

Even now the dispute as to who succeeds to the estate of Smt. Moti Bai is still engaging the attention of the civil courts. Such an issue has not attained finality yet. The criticism made by Sri B.Vijaysen Reddy, learned counsel for the respondents, in this regard, that one can understand a party going before a Court and praying for declaration as successor to any specified individual. But to seek a declaration that ‘A’ is the successor of ‘B’ who is the grandson of ‘X’ is an unusual one, cannot be brushed aside lightly. I am restraining from proceedings any further as the appeal preferred by the respondents against the judgment and decree rendered in O.S.No.459 of 2009 is still pending. At the same time, Sri D.Prakash Reddy has contended that earlier only Narpath Singh was making a parallel claim whereas several others have now started making a claim, only indicates that the true successors of Moti Bai are not easy to be found and it requires gathering lot of evidence, both oral and documentary. Upon a proper and careful analysis, either the decree passed in O.S.No.459 of 2009 receives approval or reversal. Therefore, till such time, the Joint Collector ought to have got guided by the judgment rendered in W.P.Nos.1214 & 14198 of 2001, particularly, when this Court has noted that the documents placed by Sardar Deva Singh before this Court *prima facie* establish that he was in possession of the land in question and the same shall be allowed to continue in his hands until

the succession to late Moti Bai becomes final amongst the competing parties. In the face of such finding, the Joint Collector ought to have stopped with the observations made in Para 16 of her order. On the contrary, she has set aside the orders passed by the Deputy Collector-cum-Tahsildar, Rajendranagar on 31.12.2013 as well as the orders passed in the appeal there against by the RDO, Rajendranagar Division on 13.02.2015. This is clearly an erroneous approach, contends Sri D.Prakash Reddy. I find that this contention deserves serious consideration and acceptance. For the present, the orders of the Deputy Collector – cum – Tahsildar dated 31.12.2013 and the orders in Appeal thereagainst passed by Revenue Divisional Officer on 13.02.2015 are not final in scope or content. They are liable to be treated as provisional. As was rightly observed by this Court the judgment rendered in W.P.Nos.1214 & 14198 of 2001 whoever is the party who succeeds in establishing the right of succession to the estate of late Smt. Moti Bai, their names could then get mutated in the revenue records and necessary pattadar pass books or title deeds can be conferred on such parties, if required, by cancelling the existing pattadar passbook or title deed which is already conferred on Sardar Deva Singh. More importantly there is no justification whatsoever for the Joint Collector to direct the MRO to record in the revenue records relating to pattadar and occupant columns with regard to land in question as “disputed” without cancelling the Pattadar Passbook of Sri Deva Singh. When once this Court has set aside the earlier orders of the Joint Collector and held, in the course of the said judgment, that possession of the land in dispute is in the hands of Sardar Deva Singh and when once MRO was directed not to interfere with the possession and enjoyment of the land by Sardar Deva Singh as the Pattadar Passbook was issued to him, until the dispute between Sardar Deva Singh and Sri Narpath Singh is settled in a court of law, directions now issued by the Joint Collector to alter the revenue records by making an entry in pattadar and possessor column as “disputed” will only defeat

the earlier injunction granted against the MRO by this Court. Such a course of action amounts to neutralising the judgment of this Court and hence, it is impressible to do so by the Joint Collector apart from being plainly unjust.

In the given facts and circumstances, all that is needed to observe is that grant of pattadar passbook or title deed or even possession held over the land in question by Sardar Deva Singh or his successors is not the end of it all. They are of purely provisional in nature and they will abide by the final result of the civil disputes relating to the succession to the estate of the true owner Smt. Moti Bai. Until that happens, the MRO is bound by the injunction granted in W.P.Nos.1214 & 14198 of 2001 and he is required to honour the same.

With the above observations and duly setting aside the direction contained in Para 23 of the order passed by the Joint Collector, so that in revenue records the land need not be recorded as “disputed land”, the revision petitions stand disposed of.

Consequently, miscellaneous petitions, if any, shall stand closed. No costs.

JUSTICE NOOTY RAMAMOHANA RAO

13.04.2016
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