THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE MS. JUSTICE J.UMA DEVI

<u>WRIT APPEAL No.1092 of 2017</u>

JUDGMENT: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under clause 15 of the Letters Patent, is preferred against the order passed by the learned single Judge in Writ Petition No.27571 of 2007 dated 19.04.2017. The appellants herein are the respondents in the Writ Petition. The respondents herein filed the Writ Petition seeking a Writ of Certiorari to call for the records of the Joint Collector, Ranga Reddy District in Case No.D5/10435/1998 dated 10.01.2006 and to quash the same as being unsustainable, unjust and illegal.

The respondents herein filed an application, under Section 5-A of the A.P. Rights in Land and Pattadar Passs Books Act, 1971 (for short 'the Act'), before the Mandal Revenue Officer, Medchal Mandal, Ranga Reddy District seeking regularization of an unregistered document dated 24.04.1960 said to have been executed in their favour by Rampalli Mallaiah, Nakka Yellaiah, V.Rangaiah, Nakka Chinna Sathaiah and Nakka Pedda Sathaiah. The appellants also claimed title through the said individuals. By his order dated 23.12.1994, the Mandal Revenue Officer regularized the said transaction treating it as a private unregistered sale deed, and directed the respondents herein to pay registration fee and stamp duty as directed by the Sub Registrar. The order of the Mandal

Revenue Officer dated 23.12.1994 was assailed by the appellants herein, under Section 5-B of the Act, before the Revenue Divisional Officer, Ranga Reddy District who, by his order dated 18.11.1998, confirmed the order of the Mandal Revenue Officer. In revision, the Joint Collector, by the impugned order dated 10.01.2006, held that the appellants herein had contended, during the course of the proceedings, that the document, on which respondents-writ petitioners had relied upon, was fictitious; the Mandal Revenue Officer could not have examined disputed questions of title; and when a transfer is disputed on the basis of fraud, coercion, forgery etc., under which a contract may be void or voidable, he should have directed such questions to be decided only by a Civil Court. The orders of the Mandal Revenue Officer dated 23.12.1994, and the Revenue Divisional Officer dated 18.11.1998, were set aside.

In the order under appeal, the learned Single Judge observed that Sri Malla Reddy/Rampally Mallaih had deposed on 20.12.1994, before the Mandal Revenue Officer, that his father Kaukuntla Bhadraiah had executed the document dated 02.04.1961 in favour of the respondents-writ petitioners; and his father, who was mentally retarded, did not sell the subject land to the respondents-writ petitioners. The learned single Judge held that, since the document was not executed by Kaukuntla Bhadraiah, the question whether the said Bhadraiah was mentally retarded or not was irrelevant; the respondents-writ petitioners had examined Sri Challa Narsimha Reddy, the scribe of the document dated 24.04.1960; he had clearly stated that the pattadars had sold the subject land to the respondents-writ petitioners after receiving the sale consideration; the Mandal Revenue Officer had also relied upon the revenue records to show possession of the respondents-writ petitioners over the subject land; the ROR, prepared in 1979-80, also recorded the name of the respondents-writ petitioners as the occupants; this entry was not challenged by the pattadars or their legal representatives; in appeal, the Revenue Divisional Officer had also recorded that the respondents-writ petitioners had produced photo-copies of the land revenue receipts from 1964-65 to 1993; the pahani entries showed their possession over the land for a very long time; mere plea of fraud did not justify the order of the Mandal Revenue Officer, as confirmed in appeal by the Revenue Divisional Officer, being set aside by the Joint Collector; and no material was placed in support of the plea of forgery. On the ground that a mere plea of fraud did not justify interference by the Joint Collector; the learned single Judge set aside the said order leaving it open to the appellants to avail the appropriate remedy before the Civil Court.

Before us Sri K.Goverdhan Reddy, learned Counsel for the appellants, would submit that the document which was regularized is an unregistered sale deed; two-Division Benches of this Court, in **K.Seetharama Reddy v. Hassan Ali Khan**[1] and **Konkana Ravinder Goud v. Bhavanarishi Co-operative House Building Society**[2] had

[1] 2003 (1) ALT 276 (D.B)
[2] 2003 (6) ALT 1 (D.B)

held that an agreement of sale simplicitor could not be regularised under Section 5-A of the Act; and, consequently, the Mandal Revenue Officer had erred in regularizing the agreement of sale.

From the grounds of appeal, as recorded in the order of the Joint Collector himself, it is evident that the appellants herein did not raise this plea, that the agreement of sale could not be regularized under Section 5-A of the Act, before the Joint Collector. The only contention raised by the appellants before the Joint Collector was that the entire transaction was vitiated by fraud. The learned single Judge has held that the plea of fraud would not, by itself, justify interference by the Joint Collector in the absence of any material being produced in support of the said plea; regularization, of the subject document by the Mandal Revenue Officer, was based on the evidence of Sri Challa Narsimha Reddy, the scribe of the document dated 24.04.1960; reliance placed by him on the revenue record would show that the respondents-writ petitioners were in possession of the subject land; the Record of Rights, prepared in 1979-80, also recorded them as 'occupants'; and from the order of the Revenue Divisional Officer, it was also clear that the respondents-writ petitioners had placed photo copies of the land revenue receipts from 1964-65 to the year 1993 as also the pahani entries to show their possession over the subject land.

In an intra-court appeal, under clause 15 of the Letters Patent, interference is called for only if the order under appeal suffers from a patent illegality. The order of the learned Single Judge, setting aside the order of the Joint Collector on the ground that he could not have interfered with the order of the Revenue Divisional Officer confirming the order of the Mandal Revenue Officer merely on the plea of fraud without any material being produced in support of such a plea, does not suffer from any such infirmity warranting interference in an intra-court appeal under clause 15 of the Letters Patent. The interests of the appellants have been adequately safeguarded by the learned Single Judge holding that they were at liberty to approach the Civil Court for appropriate relief raising all the points available to them under law. We do not find any reason, therefore, to interfere with the order under appeal. Suffice it to make it clear that, in case the appellants avail their remedy of filing a civil suit, their claim shall be examined on its own merits uninfluenced by the observations made either in the order under appeal or in the order now passed by us.

Subject to the aforesaid observations, the Writ Appeal fails and is accordingly dismissed. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(J.UMA DEVI, J)

08.08.2017
Gsn