

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No.848 of 2007

Order:

Heard learned counsel for the petitioners, learned Government Pleader for the respondents 1 and 2 and learned counsel for the third respondent.

The case of the petitioners is that the land in Survey No.144/6A and 6B of Vidyadharapuram village, Revenue Ward No.1, Municipal Ward No.1, Block No.1, T.S. No.7/6, Vijayawada Municipal Corporation originally belongs to one Basavaraju Srisukulu. He died leaving the property in favour of his wife Basavaraju Ranganayakamma with absolute rights. Since they have no male issues, their only daughter got married to one Ongolu Srinivasa Rao. They had a son by name Ongolu Sathya Bhanu Abhaya Kumar. It is the case of the petitioners that Basavaraju Ranganayakamma executed a Will on 02.01.1970 bequeathing all her immovable properties to the said Ongolu Sathya Bhanu Abhaya Kumar who was then only 12 years old subject to management of Ongolu Srinivasa Rao. The said Ranganayakamma died on 19.09.1971. When the land was occupied by one Y.V.V. Satyanarayana and 14 others it ended with an arbitration award dated 19.03.1993. As per the said award, the said Satyanarayana and 14 others had perfected their title and the grand son of Ranganayakamma had no right and the 15 individuals shall pay an amount of Rs.1,00,000/- to the said grand son. Accordingly, the amount was paid. The award was made as rule of the Court in O.S.No.166 of 1993 by the Principal Subordinate Judge, Vijayawada. While so, the third respondent filed O.S.No.399 of 1993 in the Court of the III Additional Senior Civil Judge, Vijayawada for cancellation of the said

decree and for declaration of award dated 19.03.1993 as void. The said suit was dismissed on 13.10.2003. The successful 15 defendants through their GPA entered into an agreement for sale of the land with M. Prasad and three others, but the sale deeds were not executed. Accordingly, O.S. No.43 of 2000 was filed on the file of the II Additional District Judge, Krishna at Vijayawada. The said suit was decreed. The plaintiffs in the said suit nominated the petitioners to obtain sale deeds in their favour. When the petitioners filed E.P.No.82 of 2005, the learned District Judge executed the sale deeds in favour of the petitioners and the EP was closed on 27.02.2006. E.P.No.79 of 2006 was filed seeking delivery of possession along with E.A.No.210 of 2006 seeking police protection. The said EA was ordered on 14.08.2006. But, when the Government, in pursuance of the orders in G.O.Ms.No.455 dated 29.07.2002, issued G.O.Ms.No.1610, Revenue Department, dated 03.11.2006, regularizing the surplus land under ULC proceedings in favour of 37 persons, the present Writ Petition was filed.

As per the counter affidavit filed on behalf of the official respondents, the land admeasuring Ac.1.62 cents in R.S.No.144/6 of Vidyadharapuram village belongs to Basavaraju Ranganayakamma who executed a Will on 17.08.1969 gifting the said land to her son-in-law Ongolu Sreenivasa Rao. He filed a declaration on 10.08.1976 declaring his properties including the said land before the Special Officer and Competent Authority, Urban Land Ceilings, Vijayawada. When the third respondent sought exemption from the provisions of Urban Land Ceiling Act in respect of the said land, the exemption was rejected on 27.03.1999 on the ground that the society was not a genuine society and there was a dispute between the members and President of the society. Other

grounds were also raised. In view of the same, some members of the society filed individual applications seeking regularization and accordingly the Government issued G.O.Ms.No.1610, Revenue Department, dated 03.11.2006 regularizing the plots allotted by the President of the society to 37 individuals previously. In fact, the President of the third respondent society withdrew W.P.No.15993 of 2000 on 27.04.2006 in order to enable the members to get orders under G.O.Ms.No.455, Revenue Department, dated 29.07.2002.

The third respondent has not filed any counter affidavit.

As could be seen from the above averments, the case set up by the petitioners was not accepted by the second respondent and the second respondent asserted that by virtue of declaration filed by Ongolu Srinivasa Rao the proceedings were taken under the provisions of the Urban Land Ceiling Act. Learned counsel for the petitioners brought to the notice of this Court the order in W.P.No.5385 of 2007 passed when a challenge was made to the impugned Government Order at the instance of an agreement holder with Ongolu Srinivasa Rao. This Court disposed of the said writ petition clarifying that the impugned Government Order does not bring about any change vis-à-vis the rights of the parties in respect of the land in question and the Government Order would have the effect only of enabling the third respondent to protect itself from any adverse action under the Act and nothing more. It was stated that the parties should have to work out their interests, rights and obligations independently.

In view of the same, this Writ Petition is also disposed of giving liberty to the petitioners to work out their rights, if any, as against the persons whose lands were regularized under the Government Order and

on the pleas set up by the petitioners the Government Order cannot be set aside. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions pending, if any, in this Writ Petition shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 13.06.2017
Nsr

