HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.24539 of 2001

ORDER:

Assailing the order dated 22.09.2001 passed in File No.F2/1230/97, wherein and whereunder an application made by the petitioners seeking rectification of mistake in the un-registered sale deed was rejected, the present Writ Petition came to be filed.

2) The circumstances, which lead to filing of the present Writ Petition, are as under:-

2.1) The petitioner herein made an application under Section 50-B of the A.P. (T.A) Tenancy and Agricultural Lands Act on 28.03.1972, in respect of lands in Sy.Nos.360, 364, 365 and 392 admeasuring Ac.58.23 gts. situated at Pulmamidi village before Tahasildar, Ibrahimpatnam wherein it was mentioned that the consideration of Rs.5,000/- was paid on 15.11.1965. The cut-off date for filing the application seeking validation was 31.03.1972. The file was sent to the call book on 30.05.1972 as per the instructions of the Government and same was reopened on 06.05.1974. An enquiry was conducted for validation of sale transaction under Section 50-B of the Tenancy Act and a certificate was granted on 08.02.1975. In the year 1989, the Joint Collector issued a show cause notice dated 27.04.1989 to the petitioner and to one N.Govind Raj (purchaser), the grandfather of writ petitioners 3 and 4 to show cause within 15 days from the date of issue of the notice as to why the validation certificate No.C3/2720/74 dated 08.02.1975 should not be cancelled under sub-section (4) of Section 50-B of A.P. (T.A.) Tenancy and Agricultural Lands Act, 1950. An explanation came to be submitted and thereafter the Joint Collector vide his order dated 11.09.1989 cancelled the sale certificate dated 08.02.1975. Aggrieved by the order, the petitioners filed W.P.No.13566 of 1989 before the High Court. By an order dated 30.04.1993, it was held as under:-

"Having regard to the facts and circumstances of the case, I hold that the exercise of suo-motu power of revision under sub-sec.(4) of Sec.50-B of the Act in these cases after a lapse of more than twelve years, can be no stretch of imagination be said to be within a reasonable period. Therefore the exercise of power is arbitrary and illegal. The first point is accordingly answered."

"Now coming to the second point, it has already been pointed out above, the period of validation was extended from time to time from 31.03.1972. The Joint Collector recorded a finding of fact that the possession of the land in question was given in 1965, but however held that as the possession was not transferred to the vendee on or before 21.02.1961, and the application for validation was made on 24.03.1972, the validation certificate is illegal. Admittedly the application was made within the extended time. The transaction of sale which was validated, was entered into in 1965 and pursuant to it possession was also given in 1965, as such validation certificate can not be held to be bad in law. For these reasons the orders questioned in the C.R.Ps. and the W.Ps. cannot be sustained even on merits."

2.2) Aggrieved by the common order dated 30.04.1993 passed in the above Writ Petition, the third respondent herein filed a Writ Appeal No.929/93 and batch. A division bench of this Court in **Ibrahimpatnam Taluk Vyavasaya Coolie Sangam rep. by its General**

Secretary v. K.Suresh Reddy and others[1] dismissed the Writ Appeals holding as under :-

"It is submitted that the lands to the extent Ac.58.23 gts. was alienated, transferred and the possession was delivered to latge N.Govindaraj in the year 1965 under the sale deed on Vishwavasu Nama Samvatsaramu Karthika Bahula Sapthami, corresponding English date 15.11.1965. The said sale deed was written by the village patwari late N.Chandraiah in Telugu language (local script prevailing in terlangana area) on stamp papers of Rs.2/- and fifty paise, purchased by K.Narasimha Reddy on 12.11.1965 and the same was endorsed in Urdu. Another copy of said sale deed was written by patwari on the white paper, so as to keep the same, one by transferee and the other by transferer i.e., late N.Govindaraj and K.Narasilmha Reddy. It is clearly evident the said sale deeds were executed or written on 15.11.1965 i.e., on Vishwavasu Nama Samvastarama Karthika Bahula Sapthami. While mentioning the corresponding English date in the place of 1965, it was written as 1972 by oversight/mistake. However, at the end of the sale deed the English date was written as 15.11.1965 correctly. It is also evidently clear from the other copy (white paper) that the date was written correctly. During the course of enquiry at the time of issuing of validation certificate, two sale deeds were shown and submitted, but the one which was written on stamp paper was retained on the file."

2.3) After considering the representation made, the Joint Collector, rejected the request holding as under:-

"I have verified the copy of sale deed available in the file. Accordingly to the contents of the sale deed it was executed on Karthika Bahula Sapthami, Vishwavasunama Samvastara, which is the Telugu calendar. The respondents have produced a copy of the "Panchanama" which shows the equivalent corresponding English date as 15.11.1965. The respondent viz., K.Narasimha Reddy has admitted that due to oversight the year has been mentioned as 1972 in the first page of the sale deed instead of 1965. But this contention is not acceptable to the court. Had the sale deed been really executed in the year 1965, the question of writing the year 1972 does not arise. The sale deed purported to have been executed in the year 1965 appears to be pre-meditated and not genuine. Therefore, I am of the view that the transaction deed has been executed after March, 1972 and vitiated

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[1] 1996(2) ALD 945 (D.B)

by the provisions of Validation of Alienation and Transfers of Agricultural Lands Rules, 1964. In the circumstances the validation certificate issued by the then Tahasildar, Ibrahimpatnam dt:08.02.1975 in File No.C3/2720/1974 is hereby cancelled."

Challenging the same, the present Writ Petition is filed.

3) The main ground urged by the learned counsel for the petitioners is that the land which is subject matter of dispute is a patta land and that the Government has no role to comment upon the said transaction. It is his case that the aggrieved party, if any, has not come to the Court, but the third respondent/organization claiming itself to be an organization working for the poor, has approached the Court only with a view to harass the petitioner. It is further stated that the date 15.11.1972 mentioned in the first few lines of the sale deed, was by mistake, as the stamp paper was purchased on 12.11.1965 and there is a reference to 15.11.1965 in the last sentence of the sale deed. It is urged that the circumstances taken as a whole, would clearly establish that the sale deed was executed on 15.11.1965.

4) It is to be noted that the stamp paper, on which the un-registered sale deed came to be executed, was purchased on 12.11.1965. The objections, raised before the authority that the stamp paper was purchased in December 1972, is incorrect as the said stamp paper was purchased on 12.11.1965. It is also to be noted here that when an application in Form-I was filed on 28.03.1972, the question of purchasing the stamp paper in the month of December,

1972 would not arise. It is also urged that the unregistered sale deed which was executed on 15.11.1965 contains a phrase in Telugu "Viswasuranama Samvastara Karthika Bahula Sapthami" which corresponds to 15.11.1965. Since the date on which the stamp paper was purchased came to be mentioned in the Urdu, neither the Collector nor the authorities who were well-versed with the language, blindly believed the representation made by the third respondent and rejected their request.

5) Inspite of service of notice on the third respondent there is no representation on his behalf. The respondent/ Government filed counter disputing the averments made in the affidavit filed in support of the Writ Petition. The learned A.G.P., would submit that there is no illegality in the order passed by the Joint Collector and as such the same warrants no interference.

6) As stated earlier, the learned counsel for the petitioners himself states that if the stamp paper was purchased in the year 1972, as alleged before the authorities, the petitioner has no case but on the other hand, to demonstrate that the stamp paper was purchased on 12.11.1965, he refers to words "Viswasuranama Samvastara Karthika Bahula Sapthami", referred therein to show that the same correspond to 15.11.1965, which establish that the unregistered sale deed was executed in the year 1965 itself. In order to appreciate the same, this Court took the assistance of a person,

who was well-versed in Urdu to find out the date on which the stamp paper was purchased. Even the Addl. A.G.P. for Revenue found out the date of purchase of stamp paper referred to, on the stamp paper and both of them stated that the date mentioned therein is 12.11.1965. Since the date of purchase is 12.11.1965, as the contents of the document more particularly the usage of words "Viswasuranama Samvastara Karthika Bahula Sapthami" correspond to 15.11.1965 as held by the authority himself, this Court is of the view that the date 15.11.1972 referred to in the un-registered sale deed was an error, as the subsequent contents of the document refer to 15.11.1965. That being so, the date referred to in the first few lines of the unregistered sale deed need to be read as 15.11.1965 and not 15.11.1972, as stated therein. Hence, the order under challenge is liable to be set-aside.

7) Accordingly, the Writ Petition is allowed. No costs. As a sequel to it, miscellaneous petitions pending, if any, in this Writ Petition shall stand closed.

C. PRAVEEN KUMAR, J

Dt: 02.08.2017.
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