IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

* * * *

Writ Petition Nos.20780 and 20781 of 2008

W.P. No.20780 of 2008

Dr. Y. Chandrasekhara Chowdhary and others

....Petitioners

And

State of Telangana, rep. by the
Principal Secretary, Revenue Department,
Secretariat, Hyderabad and others

... Respondents

JUDGMENT PRONOUNCED ON : 28.07.2017

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1.	Whether Reporters of Local newspapers may be allowed to see the Judgments?	:	YES
2.	Whether the copies of judgment may be Marked to Law Reporters/Journals?	:	NO
3.	Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment?	:	NO

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition Nos.20780 and 20781 of 2008

Common Order:

These two Writ Petitions are being disposed of by this common order, as they relate to the same land.

Heard learned counsel for the petitioners, learned Government Pleader for the respondents 1 and 2 and learned counsel for respondent No.3.

These are two other cases where the then Special Officer and Competent Authority, Urban Land Ceiling, Hyderabad had indulged in misadventure by overacting and causing lot of trouble to the private persons.

W.P.No.20780 of 2008 was filed by the petitioners challenging the entire proceedings in C.C.No.H1/2672/06 under the provisions of the Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the Act') computing the land of the petitioners admeasuring 36,623.54 sq. meters (Ac.0.91 ½ gts) in Survey No.340 of Poppalaguda village, Rajendranagar Mandal, Ranga Reddy district, in *suo motu* proceedings and the consequential allotment of the land treating it as surplus in favour of the third respondent by G.O.Ms.No.963, Revenue (UC-I) Department, dated 02.08.2008.

W.P.No.20781 of 2008 relates to challenge of the same proceedings in respect of 62,636.87 sq. meters situated in Survey Nos.340 and 341 of Poppalaguda village, Rajendranagar Mandal, Ranga Reddy district and allotting the land by treating it as surplus in favour of the third respondent under G.O.Ms.No.963, Revenue (UC-I) Department, dated 02.08.2008.

The facts of the case are that the lands in Survey Nos.335, 336, 338, 340, 341 and 342, totally admeasuring Ac.80.25 gts., were declared as evacuee property under the provisions of the Administration of Evacuee Property Act, 1950. The Regional Settlement Commissioner, Bombay, Ministry of Rehabilitation allotted the said land to one Mr. Vasudev, S/o Khemchand, who was a displaced person, under allotment order dated 23.06.1956, as per the provisions of the Displaced Persons (Compensation and Rehabilitation) Act, 1954. He was given possession of the said lands on 20.03.1957 and a Sanad (title deed) dated 08.12.1956 was also issued to him. He sold an extent of Ac.53.16 ½ gts., comprising the entire land in Survey Nos.336, 338 and 342 and Ac.9.01 ½ gts., in Survey No.340 to one Smt. A. Kamaladevi, W/o A. Seetharamaiah and Smt. G. Manoharamma, W/o G. Viswanatham under a sale deed dated 17.02.1968 registered as document No.277 of 1968. A certificate under Section 50-B of the Telangana Land Revenue Act was also issued in their favour. He also sold the remaining extent of Ac.9.01 ½ gts., in Survey No.340 to A. Kodandarami Reddy and Kalanji Jayadas Christopher respectively of an extent of Ac.4.20 ¾ gts., each under two registered sale deeds on 17.12.1964. The land in Survey No.335 was sold to one Balaji Singh under a registered sale deed dated 15.11.1965. The land in Survey No.341 was sold to Mamla Bai and others under an agreement of sale in 1963 and the vendee obtained a decree for specific performance, as a result of which the agreement of sale was fructified in a sale. Thus, the entire land of Vasudev Khemchand was sold to different purchasers by 1968. He died on 27.04.1998.

The petitioners in W.P.No.20780 of 2008 purchased the half share of Smt. G. Manoharamma under various registered sale deeds dated

19.10.1996, 28.10.1996, 29.10.1996, 30.10.1996 and 31.10.1996 executed by the GPA Holder late G. Vishwanadham. The remaining half share of Ac.9.01 ½ gts., in Survey No.340 was held by the legal heirs of other purchaser, Smt. A. Kamaladevi. They continued to be in possession and enjoyment of the same from the dates of their respective purchases. They were granted pattadar passbooks and title deeds under the provisions of the A.P. Rights in Land and Pattadar Passbooks Act, 1971.

Sri Kodandarami Reddy sold his share of land under an Agreement of Sale-cum-GPA registered on 10.05.1999 to late E. Malla Reddy who in turn sold the same to the second petitioner in W.P.No.20781 of 2008 under a sale deed dated 31.12.2003. Similarly, K.J. Christopher sold his extent to one R. Sudhi Rami Reddy @ Kodandarami Reddy in 1984 who in turn sold the same to the first petitioner in WP No.20781 of 2008 under a registered sale deed dated 15.02.2005. Thus, they continued to be in possession and enjoyment of the same from the date of their respective purchases. They were granted pattadar passbooks and title deeds under the provisions of the A.P. Rights in Land and Pattadar Passbooks Act, 1971.

There were disputes among the legal heirs of Smt. A. Kamala Devi and Smt. Manoharamma in respect of the lands purchased by them and one Movva Achyutha Rao and another filed O.S.No.116 of 2002 on the file of the II Additional District Judge, Ranga Reddy district for partition and other reliefs. In the said suit, a compromise was entered, whereunder the title and possession of the petitioners in WP No.20780 of 2008 was accepted to an extent of Ac.10.18 gts., in Survey No.340 of Poppalaguda village and the remaining land to an extent of Ac.7.25 gts., was allotted to

Smt. Susheela Bai and M. Mahesh, the petitioners in W.P.No.202781 of 2008.

The Government issued G.O.Ms.No.455, Revenue (UC-I) Department, dated 29.07.2002, enabling the allotment of surplus land to the third parties who are in occupation of the same. Some eight (8) persons claiming to have been in occupation of an extent of Ac.11.05 gts., in Survey No.341 of Poppalaguda village, Rajendranagar Mandal, Ranga Reddy district submitted an application seeking exemption of the said land on the ground that they purchased the following extents of land under respective registered sale deeds.

Sl No	Name of the purchaser or 3rd party under possession of the property	Registered document No.& date	Extent in Acres	
			In Ac.	In Sq.Mts
1. 2. 3.	Sarati Sura P. Gangi Reddy P. Saraswathi	5347/2003 Dt. 04.08.2003	07.00	28,328
4.	M. Obanna	2666/2004 Dt.24.03.2004	0.31	3,136
5.	M. Bharatalakshmi	4431/2004 Dt.25.05.2004 4435/2005 Dt.30.04.2005	0.24 1.06 1.30	7,084
6.	M. Padma Vani	2667/2004 Dt.24.03.2004	0.24	2,428
7.	Y. Ravindra Kumar	2664/2004 Dt.24.03.2004	0.20	2,024
8.	C.V.S. Sasikala	2665/2004 Dt.24.03.2004	0.20	2,024
		Total	11.05	45,021

Upon such application, the second respondent took up *suo motu* proceedings under the provisions of the Urban Land (Ceiling and Regulation) Act, 1976 and issued a notice on 29.05.2006 to Vasudev Khemchand, who was no more by that time, under Section 6(2) of the Act in respect of Ac.11.27 gts., in Survey No.341 of Poppalaguda village, Rajendranagar Mandal, Ranga Reddy district. The record shows that the Enquiry Officer by an endorsement dated 17.07.2006 stated that Vasudev

Khemchand, the original pattadar was not available, his whereabouts were not known, the copy of the notice was affixed on the compound wall of Survey No.341 and the copies were served to the persons who are present on the spot. One of the signatories who was present was the person who sought exemption. A report was submitted to the second respondent by the Enquiry Officer on 17.07.2006 stating that the entire land is covered by compound wall and fallen vacant. There is a 40' wide road leading from Nanakramguda to Poppalaguda which passes through Survey No.341 and a copy of notice under Section 6(2) of the Act was affixed on the compound wall. He also stated that he visited the Mandal Revenue Office, Rajendranagar Mandal and verified the records. As per the Pahani for the year 1975-76 Sri Vasudev Khemchand was pattadar of the above land and total land holding was Ac.20.27 gts., consisting of Ac.9.02 gts., in Survey No.340 and Ac.11.27 gts., in Survey No.341. He also stated that there are no other lands in the name of Vasudev Khemchand. On the basis of the said report, the second respondent passed an order on 09.08.2006 preparing a draft statement holding that the said Vasudev Khemchand was a surplus land holder of an extent of 62,636.87 sq. meters in Survey Nos.341 and 340 of Poppalaguda village. The said statement was addressed to the deceased Vasudev Khemchand. The cover containing the said notice which is available in the record shows that it was returned with an endorsement of "Incomplete address, Returned to Sender". In spite of the same, the Enquiry Officer submitted a report dated 28.08.2006 stating that the local enquiries revealed that Vasudev Khemchand left the village long back duly disposing of the entire property in the village and hence the proceedings were affixed on the notice board of Grampanchayat Office, Poppalaguda and two copies were affixed on the compound walls of Survey Nos.341 and 340. Thereafter, a final statement was prepared on 24.11.2006 and a notice under Section 10(1) of the Urban Land (Ceiling and Regulation) Act, 1976 was issued on 30.11.2006. It was not addressed to anyone. The notice was published in the A.P. Gazette dated 04.12.2006 in the name of Vasudev Khemchand. The declaration under Section 10(3) of the Act was published in the A.P. Gazette dated 07.02.2007 in the name of Vasudev Khemchand. A notice under Section 10(5) of the Act dated 08.03.2007 was prepared and was not served on any one. However, the Enquiry Officer submitted a report to the second respondent stating that the land of an extent of 62,636.87 sq. meters in Survey Nos.340 and 341 situated at Poppalaguda village was taken over on 25.08.2007 under a panchanama.

The second respondent submitted a proposal on 17.03.2007 to the 1st respondent pursuant to the application made by eight (8) persons earlier recommending their case for consideration under G.O.Ms.No.455, Revenue (UC-I) Department, dated 29.07.2002.

The second respondent filed a counter affidavit trying to justify the action by stating that according to Pahani for the years 1975-76 and 1980-81 and Chowphasla for 1975-76 of Poppalaguda village the name of Vasudev Khemchand was recorded as pattadar for Survey Nos.340 and 341 of Poppalaguda village, Rajendranagar Mandal, Ranga Reddy District and hence the proceedings were taken in his name. The names of the purchasers who alleged to have purchased in 1964 and 1968 were not recorded in the revenue records. The purchasers without filing statements under Section 6(1) of the Act sold the property to the writ petitioners without obtaining permission under Section 26 of the Act, hence it is null and void.

The land of an extent of 62,636.87 sq. meters in Survey Nos.340 and 341 of Poppalaguda village, Rajendranagar Mandal, Ranga Reddy district was allotted under G.O.Ms.No.963, Revenue (UC.I) Department, dated 02.08.2008, in favour of the third respondent.

This Court, by order dated 23.09.2008 in WPMP No.27138 of 2008 in WP No.20780 of 2008, granted interim stay of operation of G.O.Ms.No.963, dated 02.08.2008, including interference with possession of the property. A similar order was passed in WPMP No.27139 of 2008 in WP No.20781 of 2008 on the same day.

The record also contains G.O.Ms.No.463, Revenue (UC.III) Department, dated 26.03.2007, allotting the following extents of land in Survey No.341 of Poppalaguda village, Rajendranagar Mandal, Ranga Reddy district to the original eight (8) applicants under Section 23(4) of the Act.

1. Sri Sarath Sura	3000.00 sq. meters
2. Sri Gangi Reddy Polam Reddy	3000.00 sq. meters
3. Smt. Saraswathi Polam Reddy	3000.00 sq. meters
4. Sri Obanna Muthuluri	1811.00 sq. meters
5. Smt. Bharata Lakshmi Muthuluri	3000.00 sq. meters
6. Smt. Padmavani Muthuluru	1400.20 sq. meters
7. Sri Ravindra kumar Yalamanchi	1169.00 sq. meters
8. Sri Venkata Surya Sasikala Chereddi	1169.00 sq. meters

Learned counsel for the petitioners submitted that the proceedings taken in the name of the deceased original owner were null and void, since the land was purchased by the predecessors in interest of the writ petitioners' way back in 1964 and 1968. He further submitted that the pattadar passbooks and title deeds were also issued in their name and hence it shows the *prima facie* title and possession in their favour and without issuing any notice to them, no proceedings can be taken at all and in any event the proceedings under Section 10(5) and 10(6) of the Act behind their back are invalid.

In State of Uttar Pradesh v. Hari Ram[1] and Gajanan Kamlya Patil v. Additional Collector and Competent Authority (ULC)[2], the procedure with regard to dispossession and the effect of Repeal Act was considered. Now the law is well settled that the notice under Section 10(5) as well as 10(6) of the Act should be served on the persons who are in possession as well as on the declarant and in view of the said decisions, the alleged taking over of possession on paper without issuing notice to the petitioners is bad in law. There is no dispute that all the proceedings were taken behind the back of the petitioners and in the name of the deceased original owner. In spite of coming to know of the fact of selling away the entire land by the original owner, no effort was made by the second respondent for verifying the purchases, but he passed order merely basing on the enquiry report submitted by the Enquiry Officer who stated that the name of the original owner was reflected in the revenue records. At the time when the provisions of the Urban Land Ceiling Act came into force, the land was in peripheral area and benefit of G.O.Ms.No.733 dated 31.10.1988 was available to the declarants, if any, but no such provision was made while calculating the land. In a case of *suo motu* proceedings, the second respondent should have been more careful, but took several proceedings under the Act, without the knowledge of the subsequent purchasers. Hence, this Court has no doubt with regard to invalidity of the proceedings and, accordingly, all the proceedings emanating from the *suo motu* proceedings under File in CC

[1] (2013) 4 SCC 280
[2] (2014) 12 SCC 523

No.H1/2672/06 are quashed and consequently G.O.Ms.No.963, Revenue (UC.I) Department, dated 02.08.2008, is set aside.

Both the Writ Petitions are, accordingly, allowed. There shall be no order as to costs.

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

A. RAMALINGESWARA RAO, J

Date: 28th July 2017
Nsr

HIGH COURT OF JUDICATURE AT HYDERABAD
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सत्यमेव जयते