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

Writ Appeal No.1052 of 2005

JUDGMENT: (per Hon'ble the Acting Chief Justice Sri Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in W.P.No.2665 of 2005 dated 21.04.2005. The appellants herein are respondents 3 and 4 in the Writ Petition. Respondents 1 to 4 herein filed the Writ Petition to quash the order passed by the Revenue Divisional Officer, Guntur, in Appeal Case No.4513 of 2004-F dated 04.02.2005.

Facts, to the limited extent necessary, are that the appellants herein purchased the subject property in the year 2003, by way of a registered sale deed dated 05.03.2003, from their vendors who were the legal heirs of late Ongole Srinivasa Rao. It is their case that, based on an entry made in the revenue records in the year 1995-96 by the Village Administrative Officer, the Mandal Revenue Officer had issued pattadar passbook and title deeds on 05.02.1997 in favour of the respondent-writ petitioners, with respect to lands in Survey No.373, and on 30.06.1996 with respect to lands in Survey No.373/1-2, 373/3 of Atmakur Village, deleting the names of the original pattadars who are the vendors of the appellants.

Aggrieved by the entries made in the revenue records in favour of the respondent-writ petitioners, the appellants herein preferred an appeal to the Revenue Divisional Officer who set aside the entries in the revenue records made earlier, questioning which the respondent-writ petitioners invoked the jurisdiction of this Court by filing W.P.No.13516 of 2004. On the said Writ Petition being dismissed by order dated 27.08.2004, they preferred an appeal to the Division Bench which, by its order in W.A.No.1602 of 2004 dated 30.11.2004, granted the appellants herein liberty to prefer an appeal to the Revenue Divisional Officer. The appellants herein again invoked the jurisdiction of the Revenue Divisional Officer, who passed the order impugned in W.P.No.2665 of 2005. Aggrieved by the order passed in W.P.No.2665 of 2005 dated 21.04.2005, the present Writ Appeal is filed by the appellants.

In his order dated 04.02.2005, the Revenue Divisional Officer observed that, on the request of the legal heirs of late Sri Ongole Srinviasa Rao, the Mandal Revenue Officer had mutated their names removing the name of late Ongole Srinivasa Rao; he had issued pattadar passbooks and title deeds for the subject lands; while giving a statement before the Land Reforms Tribunal, Vijayawada, the vendors of the respondent-writ petitioners had stated that they were kouldars of the lands of late Sri Ongole Srinivasa Rao; they had changed their stand, and had stated in the Suit that the subject lands were their ancestral properties which were partitioned among themselves; while getting their names mutated before the Mandal Revenue Officer, the respondent-writ petitioners had stated that they had purchased the subject lands from their vendors who had an agreement of sale with the original pattadar late Sri Ongole Srinivasa Rao; and they had consequently become the owners of the subject property.

The Revenue Divisional Officer observed that from this it was clear that the respondent-writ petitioners and their vendors, with a malafide and dishonest intention, had cheated the revenue authorities in getting their names mutated in the revenue records; and the registration department had registered the document in favour of the respondent-writ petitioners though their vendors did not have title to the property. The Revenue Divisional Officer held that the appellants had purchased the subject land, and had got it registered vide document dated 05.03.2003 from the legal heirs of late Sri Ongole Srinivasa Rao; all the three vendors were family members of the declarant in C.C.No.639/VJA/75 i.e. late Sri Ongole Srinivasa Rao; the subject land was mentioned in the C.C. and before the Land Reforms Tribunal, Vijayawada which decided the title, over the subject land, in favour of the declarant late Sri Ongole Srinivasa Rao vide proceedings dated 30.06.1979; the respondent-writ petitioners had claimed to have purchased the subject land, and to have got it registered in the year 1995-96 from five individuals; of them, only two had unregistered sale agreements from the title holders of the subject land; as they did not acquire the subject lands through registered sale deeds from the title holders, prima-facie, the executants of the respondent-writ petitioners had no right to sell the subject land; and the entire material evidence placed before him revealed that, prima-facie, the respondent-writ petitioners had no locus-standi to claim title over the subject land, since their executants had no valid registered documents and title in their favour. The Revenue Divisional Officer further observed that the appellants had purchased the subject land from the family members of the title holder who had sold the subject land, and had executed registered documents, in their favour; and thus the appellants had become the absolute owners of the subject land.

In the counter-affidavit, filed in the Writ Petition by the Revenue Divisional Officer, it is stated that, as per the records available in the office, the respondent-writ petitioners never made any application for mutation of records under Section 4 of the A.P. Rights in Land and Pattadar Passbooks Act, 1971, and for issuance of pattada passbook and title deeds, after purchasing the subject land in the year 1995 and 1996; as per the records available in the year 1995-96, the Village Administrative Officer, without any competence, had made entries of the names of the respondent-writ petitioners in the Village Account No.3 Adangal for Fasli 1405, based on the copies of sale deed produced by them; the Village Administrative Officer lacked competence to change the entries in the records under the provisions of the ROR Act; it is the concerned Mandal Revenue Officer who is required to pass orders under Section 5 of the ROR Act for change of entries therein; issuance of pattadar passbook and title deeds is a mere consequence thereof; the respondent-writ petitioners had never made any request for entry or their names being recorded on acquisition of right or title, or for change in the records; and based on the illegal entries made by the Village Administrative Officer, the subsequent entries were also entered in the revenue records.

In the order under appeal, the Learned Single Judge has held that the appellants cannot be said to be persons aggrieved, as they had not even purchased the land, when the names of the respondent-writ petitioners were entered in the revenue records in the year 1995-96; their remedy was only to file a Civil Suit for declaration of title; and they could not question the pattadar passbook and title deeds issued in favour of the respondent-writ petitioners.

As noted hereinabove, the order of the Revenue Divisional Officer shows that the names of the appellants' vendors were reflected in the revenue records as also in the proceedings before the Land Reforms Tribunal and in the land ceiling declarations; the names of the respondent-writ petitioners were entered in the revenue records on the basis of two unregistered agreements of sale produced by them in support of their claim to have purchased the subject land. The Revenue Divisional Officer has also taken note of the conflicting stands taken by the respondent-writ petitioners who, initially, contended that the subject lands were their ancestral property which were partitioned among themselves; they later claimed that they had an agreement of sale with their vendors who, in turn, had an agreement of sale from the original pattadar late Sri Ongole Srinivasa Rao; and they had, thereafter, claimed that they had purchased the subject lands by way of a registered sale deed.

The Revenue Divisional Officer, by an elaborate order, upheld the appellants contention for cancellation of the entries made in favour of the respondent-writ petitioners in the revenue records, and in granting a pattadar passbook and title deed in their favour. As the appellants have traced their title over the subject properties, from their vendors whose names are reflecting in the revenue records and who are the legal heirs of late Sri Ongole Srinivasa Rao, it is evident that the Learned Single Judge had erred in non-suiting them on the ground that they were not the persons aggrieved. The Learned Single Judge has not even examined the respondent-writ petitioners' claim on merits nor has he found any error in the findings recorded by the Revenue Divisional Officer in the order impugned in the Writ Petition.

It is no doubt true that proceedings under the A.P. Rights in Land and Pattadar Passbooks Act, 1971 are summary in nature, and it is always open to any person claiming title over the property to file a Civil Suit for declaration of title and, based on the decree, to seek correction of the revenue records. We are satisfied that the Learned Single Judge was not justified in relegating the appellants herein to the remedy of a Civil Suit to establish their title as it is evident, from the order of the Revenue Divisional Officer, that the appellants' vendors names were reflected in the revenue records even before the names of the respondent-writ petitioners were entered therein, and the appellants had purchased the subject lands from their vendors whose names were reflected in the revenue records till 1993-94. The order under appeal necessitates being set aside.

The Writ Appeal is, accordingly, allowed. However, in the circumstances, without costs. It is made clear that neither the judgment now passed by us, nor the order passed by the Revenue Divisional Officer, shall disable the respondent-writ petitioners from approaching the competent Civil Court to establish their title over the subject property as proceedings under the A.P. Rights in Land and Pattadar Passbooks Act, 1971 are summary in nature; and neither the Mandal Revenue Officer nor the Tahsildar can adjudicate disputed questions of title in proceedings under the Act. The 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.

Date:14.09.2017.
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