

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WV.MP.No.2783 of 2015

in/and

WP.No.33992 of 2014

COMMON ORDER:

1. Petitioner had filed this Writ Petition assailing the order dt.20.06.2014 in File No.D5/2303/2012 of the Joint Collector-I, Ranga Reddy District, Hyderabad (2nd respondent).
2. The subject matter of this Writ Petition is an extent of Ac.1-16 guntas in survey No.374 of Turka Yamzal Village, Hayathnagar Mandal, Ranga Reddy District.
3. Petitioner contended that his father, Jangaiah, was the absolute owner, pattadar and possessor of this land having purchased the same under a registered Sale Deed No.95/1965 dt.21.05.1965 for a valuable sale consideration; that his father's name was recorded as both pattadar and possessor and as on date to the file of the Writ Petition, petitioner was in possession and enjoyment of the land.
4. Petitioner claimed that respondents 3 to 5 along with others tried to interfere with his peaceful possession, that he filed O.S.No.1884 of 2008 before the VII Additional Senior Civil Judge, Ranga Reddy District with reference to Land in survey No.187/2; that he also filed I.A.No.1283 of 2008 for a

temporary injunction in the said suit; that respondents 3 to 5 appeared and filed counter affidavit claiming that proceedings No.B/6291/98 were issued in their favour by the Mandal Revenue Officer, Hayathnagar, that the Mandal Revenue officer issued a Memo dt.30.05.2012 stating that there is no file with such number, that he applied for certified copies of pahanies and after receiving the same, he was surprised to know that his father's name was rounded off in 1995 without any proceeding number being mentioned and names of respondents 3 to 5 were found written. He contended that this action of the revenue authorities was against the principles of natural justice and contrary to the procedure prescribed under the A.P. Rights in Land and Pattadar Passbook Act, 1971 (for short 'the Act').

5. Petitioner contended that he filed a Revision under Section 9 of the Act before the 2nd respondent, who is the authority under the Act, to correct the mistakes, that the respondents 3 to 5 appeared and contested the matter by filing their counters; that they filed copy of the Compromise Memo and Decree passed in AS.No.32 of 1992 on 29.04.1987 by the Additional District Judge, Ranga Reddy District and alleged that they got land in survey No.374 from one Rasheed Yousuff Qureshi under an Exchange by giving up their right in the land admeasuring Ac.0-23 guntas in survey No.344. He

contended that there is no mention about the said Exchange in the said Compromise Memo and that in the said memo, it is mentioned that respondents 3 to 5 have got the land of an extent of Ac.1-17 guntas in survey No.374 in lieu of exchange of survey No.344 and that in spite of the said fact, the Revisional Authority passed the impugned order dismissing the Revision filed by the petitioner. He contended that the said order was passed seven months after orders were reserved by the 2nd respondent and it is contrary to law and unsustainable.

6. On 20.11.2014 the Writ Petition was admitted and in W.P.MP.No.43997 of 2014 this Court directed maintenance of *status quo* as on that date in respect of the subject land and further directed that no improvements or constructions or development work shall be made therein.

7. WV.MP.No.2783 of 2015 is filed by respondents 3 to 5 to vacate the said order.

CONTENTIONS OF RESPONDENTS 3 to 5:

8. The respondents 3 to 5 contended that though petitioner's father purchased the subject land under a sale deed No.95/1965 from one Mohd Jahangir Qureshi, his brother Rasheed Yousuf Qureshi, filed a suit against the petitioner's vendor Mohd Jahangir Qureshi for partition of the

land in survey No.374 as well as other lands; that petitioners' father was impleaded as a party in the said suit; that the matter was compromised in A.S.No.32 of 1982 before the Additional District Judge, Ranga Reddy District, Saroornagar on 27.08.1987; and as per the terms of compromise, the land in survey No.374 admeasuring Ac.1-17 guntas was declared to be in possession of the appellant therein, Rasheed Yousuf Qureshi and not the petitioner or his vendor Mohd.Jahangir Qureshi; that the petitioner's father was a signatory to the said compromise and having accepted the said compromise, it binds the petitioner also. They contend that once it is held that the subject land in survey No.374 fell to the share of Rasheed Yousuf Qureshi, petitioner and his father have no right, title or interest therein.

9. They contend that respondents 3 to 5 purchased the subject land in survey No.374 from Rasheed Yousuf Qureshi under an unregistered sale deed, which was validated under Sec.5A of the Act, that their names were mutated by proceedings B/2789/1998 and B/6291/1998 and pattadar pass book and title deeds were also issued to them by the Mandal Revenue Officer, Hayathnagar.

10. They contend that petitioner can no longer make any claim on the basis of the sale deed No.95/1965 which has

been superseded by the compromise dt.27.08.1987 in A.S.No.32 of 1982. They pointed out that under the compromise, petitioner's father and one Gunda Mallaiah were conferred right in respect of land in survey Nos.187/1, 187/2 and 378 only and petitioner's father and the petitioner have no right, title or interest in the said extent of Ac.1.17 guntas in survey No.374.

THE CONSIDERATION BY THE COURT

11. In the impugned order dt.26.06.2014, 2nd respondent relied upon the compromise d.27.08.1987 in A.S.No.32 of 1982 to hold that the land admeasuring Ac.1-17 guntas in survey No.374 was not allotted to the vendor of the petitioner's father, though he may have purchased it through document No.95/1965 executed by Mohd Jahangir Qureshi and that the said compromise decree prevails over the sale deed.

12. Though counsel for the petitioner sought to contend that this finding cannot be sustained and that only land in survey No.376 fell to the share of respondents 3 to 5, a reading of the Compromise Decree dt.27.08.1987 in A.S.No.32 of 1982 shows that Rasheed Yousuf Qureshi was allotted Ac.1.17 guntas in survey No.374 in the said compromise, that the said land was not allotted to petitioner's father's vendor, Mohd Jahangir Qureshi, and therefore, no title passed in favour of the

petitioner's father under the sale deed No.95/1965. Consequently no right, title or interest in the property passed to the petitioner on the death of his father. Moreover, the said compromise having been signed by petitioner's father, it binds the petitioner also, since he is only claiming only through his father. Therefore the petitioner is estopped from claiming any right, title or interest in Ac.1.17 guntas in survey No.374.

13. In this view of the matter, the Writ Petition is dismissed with costs of Rs.2,000/- payable by the petitioner to respondents 3 to 5. WV.MP.No.2783 of 2015 is allowed and the order dt.20.11.2014 in W.P.MP.No.43997 of 2014 is vacated.

14. Miscellaneous petitions, pending if any, shall stand closed.

M.S.RAMACHANDRA RAO, J

19th December, 2017.
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