

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

[Special Original Jurisdiction]

TUESDAY THE FOURTEENTH DAY OF NOVEMBER
TWO THOUSAND AND SEVENTEEN

PRESENT
HONOURABLE SRI JUSTICE M.S. RAMACHANDRA RAO

WRIT PETITION NO. 42169 OF 2016

Between:

Yenaganti Shankar Reddy & Ors. ... Petitioners

V/s.

The State of Telangana
Represented by its Principal Secretary
Revenue Department,
Secretariat,
Hyderabad & Ors. ... Respondents

Counsel for the Petitioner: Sri Dasari Vijaya Kumar

Counsel for the Respondents: Govt.Pleader for Revenue [TG]
for R-1 to R-4
Sri V.N. Nagaiah for R5 to R7

The court made the following: [order follows]

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION NO. 42169 OF 2016

ORDER :

Petitioners have filed this writ petition assailing the order dated 16/11/2017 of the third respondent rejecting their petition to grant permission for conversion of agricultural land admeasuring Ac:0-31 guntas in survey No. 142/LU and 142/LUI out of Ac:12-31 guntas of Kompella village, Bhoopalpally Mandal of Parkal Division of Warangal District for non-agricultural purpose under the provisions of A.P. Agricultural Land [Conversion for Non-Agricultural Purpose] Act, 2006.

2. It is not in dispute that respondents 5 to 7 have applied for conversion of the said land from agriculture to non-agriculture use before the third respondent in the year 2016 on the basis of sale deeds, dated 29/12/1983, 08/03/1993 and 29/12/1993 obtained by them.

3. Petitioners claim to have purchased an extent of 3782 sq.yards also in survey No. 142 [survey No. 142/LU] from one Thati Santhosh and Thati Ganesh Kumar through registered sale deed dated 14/12/2005. On coming to know that respondents 5 to 7 have applied for conversion of the land which

the petitioners claimed to be their own, petitioners filed objection petition before the third respondent on 07/10/2016 setting out the acquisition of title by them, and also stating that when there was no mutation effected by the fourth respondent, they had filed WP.No. 31712 of 2016 before this Court, and this Court had directed them to apply in Form 6-A under the A.P. Rights in Land and Pattadar Passbooks Act, 1971 to the fourth respondent for mutation of their names.

4. By the impugned order dated 07/10/2016 the third respondent rejected objection raised by the petitioners on the ground that he had inspected the land for issuing the land conversion proceedings and had noticed that the respondents 5 to 7 have physical possession and also clear title. On the basis of this adjudication, he issued a consequential proceedings granting permission to the respondents 5 to 7 to convert the land in survey No.142 for non-agricultural purpose. On 05/12/2016 while ordering notice before admission, this Court granted *status quo* with regard to the subject property. To vacate this order, respondents 5 to 7 have filed W.V.MP.No. 584 of 2017.

5. Heard counsel for the writ petitioners, Government Pleader for respondents 1 to 4 and Sri O. Manohar Reddy, counsel for respondents 5 to 7.

6. Counsel for petitioners contended that in exercise of jurisdiction under the Act, the third respondent cannot go into the issue of title, since no such power has been conferred on him under any of the provisions of the Act and therefore, the impugned order wherein the third respondent has certified the title of the respondents 5 to 7, is without jurisdiction. He also contends that in view of this, petitioners need not be compelled to file appeal against the order of the third respondent to the second respondent under section 8 of the Act.

7. Government Pleader for Revenue appearing for respondents 1 to 4 is unable to show any of the provisions of the Act which empowers the third respondent to adjudicate title to the property and grant permission for conversion on the said basis. It is settled law that questions of title cannot be adjudicated by the executive authorities, and only competent Civil Court can exercise power under section 9 of the Code of Civil Procedure, 1908 read with Specific Relief Act, 1963 can decide questions of title. If executive authorities are allowed to exercise judicial powers it would be destructive of law and violates the doctrine of separation of powers.

8. This legal position is not disputed by the Government Pleader for respondents 1 to 4. Though the counsel for respondents 5 to 7 sought to

contend that respondents 5 to 7 have obtained a decree against the vendor of the petitioners in OS.No. 186 of 2006 from the II-Additional Senior Civil Judge, Warangal, on 09/09/2006, the said suit is only for injunction and an ex-parte decree had been passed therein. No title of either party was decided therein.

9. He also pointed out that this purchase by the respondents 5 to 7 is much before the purchase by the writ petitioners and therefore, respondents 5 to 7 would have better title than the petitioners. The question for consideration is not “which of the parties i.e., petitioners or respondents 5 to 7 have better title ?” but the question is “whether third respondent has jurisdiction to decide the title of respondents 5 to 7 against the petitioners ?” When the order passed by the third respondent is without jurisdiction, there is no necessity for the petitioners to avail the remedy of appeal, since it is settled law that existence of alternative remedy will not bar exercise of jurisdiction under Article 226 of the Constitution to interfere with such orders.

9. In this view of the matter, I am of the opinion that the impugned order cannot be sustained. It is accordingly set aside and the parties are directed to get appropriate relief in Civil Court in relation to their respective claims of title and then only apply to the third respondent for conversion of

the agricultural land for non-agricultural purpose. Therefore, the Writ Petition is allowed and the impugned order is set aside subject to the above direction.

W.V.P.No. 584 of 2017 is accordingly dismissed. No costs.

10 As a sequel, miscellaneous petitions if any, pending in this writ petition shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO.



14/11/2017
I s L

HONOURABLE SRI JUSTICE M.S. RAMACHANDRA RAO

WRIT PETITION NO. 42169 OF 2016



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