

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P. No.22999 of 2011

ORDER:

1. This Writ Petition is filed by the petitioner assailing letter No.B/554/2011, B/1799/2010 dt.31.05.2011 and Memo No.B/1799/2010 dt.14.12.2010 of the 1st respondent.

2. Petitioner alleges that he is the absolute owner of land admeasuring Acres 4.18 guntas in survey Nos.161, 162 and 166 of Meerpet Village, Hayathnagar Mandal, Ranga Reddy District, and that he purchased the same from one Syed Abdul Kareem Noori under an agreement of sale dt.20.12.1984. According to him, though it is styled as Agreement of Sale, it is in fact a sale deed since entire sale consideration was paid and possession was delivered to him.

3. Petitioner alleges that he made an application in 1989 under Section 5-A of the A.P. Rights in land and Pattadar Pass Books Act, 1971 and vide proceedings No.A/850/89 dt.19.12.1989 Form 13-B certificate was issued to him regularizing the said document.

4. The Respondents 2 and 3 through their G.P.A. holder(4th respondent) questioned the said certificate under sub-section (5) of Section (5) of the A.P. Rights in land and Pattadar Pass Books Act, 1971 before the Revenue Divisional Officer in Appeal No.A2/5535/98 only in respect of land

admeasuring A.1-37 guntas in survey No.161 of Meerpet Village.

5. The said appeal was allowed on 18.06.1999 and the matter is remitted back to the Mandal Revenue Officer for *de novo* enquiry.

6. The Mandal Revenue Officer then conducted *de novo* enquiry and passed order on 20.04.2000 in File No.B/4553/1998 stating that the Revenue Divisional Officer, Ranga Reddy East Division in order dt.18.06.1999 observed that technical verification as per the provisions of Survey and Settlement Act is required to be done to find out whether the land in survey No.161 new is part of old survey No.161 or 164, and that the matter was then referred to the Assistant Director of Survey and Land Records, Ranga Reddy District to depute an Inspector of Survey for demarcation; and after inspection it was found that survey No.161 new is neither part of old survey No.161 nor 164. He advised both parties to approach the competent authority for rectification of records in respect of survey No.161 of Meerpet Village.

7. It is not in dispute that the competent authority for rectification of records is the Joint Collector, Ranga Reddy District as per Section 87 of the A.P. (Telangana Area) Land Revenue Act, 1317 Falsi (for short 'the Act').

8. Challenging this order dt.20.04.2000 of the Mandal Revenue Officer, respondents 2 and 3 represented by 4th respondent filed a Revision before the Joint Collector, Ranga Reddy District under Section 9 of the Act in the year 2009, which was numbered as D5/6025/2009.

9. The Joint Collector passed orders on 29.07.2010 confirming the orders of the Mandal Revenue Officer dt.20.04.2000 and directed that steps be taken to file application under Section 87 of the Act. He further stated that changes in revenue records with regard to entries cannot be taken up unless settlement error is rectified by a Competent Authority and both the parties should approach the Survey Settlement Officer of the District for redressal of the issue.

10. Thereafter, the 4th respondent gave a representation dt.27.08.2010 to the 1st respondent requesting for rectification of entries in the revenue records enclosing copy of the order dt.29.07.2010 of the Joint Collector, Ranga Reddy District and praying for such rectification in accordance with the said order.

11. Thereupon, the 1st respondent issued Memo No.B/1799/2010 dt.14.12.2010 adverting to the contents of the order dt.29.07.2010 of the Joint Collector, Ranga Reddy District, but strangely stating that till finalization of the issue of rectification of the settlement error, the Village Revenue

Officer, Meerpet Village should not record the names of either of the parties in the pahanies and to record as “Kharij Katha” in respect of land of extent of Ac.1-37 guntas in survey No.161 of Meerpet Village.

12. The 4th respondent made another representation on 15.04.2011 to the 1st respondent stating that the subject land is government land for all purposes, that Government should protect this land from land grabbers, that the petitioner has started basement works and is trying to erect compound wall, and requested to stop this activity of the petitioner in encroaching the land and changing the nature of the land highhandedly.

13. Thereupon, the 1st respondent addressed letter on 31.05.2011 to the District Registrar, Ranga Reddy East Division, Bairamalguda village, Saroornagar Mandal, Ranga Reddy District stating that the land has now been recorded as “Kharij Katha” in revenue records and no alienation should be permitted for this land pending rectification of settlement error by the competent authority.

14. Assailing the same this Writ Petition is filed.

15. It is not in dispute that the 4th respondent had filed an application before the Joint Collector, Ranga Reddy District, which was numbered as D1/1215/2011, seeking rectification of the revenue records invoking Section 87 of the

Act and the said application is pending before the said authority.

16. It is also stated by the counsel for 4th respondent that the writ petitioner was impleaded as party therein.

17. Counsel for the petitioner contended that the Memo dt.14.12.2010 of the 1st respondent is without any jurisdiction and is contrary to the order dt.29.07.2010 of the Joint Collector, Ranga Reddy District. He contended that the land was not Government land and the 1st respondent cannot direct the Village Revenue Officer, Malkajgiri Village to record the land as “Kharij Katha” merely because an application under Section 87 of the Act is pending before the Competent Authority. He also contended that the subsequent proceeding dt.31.05.2011 of the 1st respondent addressed to the District Registrar, Ranga Reddy East Division not to register any document alienating this land, is equally without jurisdiction, since the basis of the said proceeding is the Memo dt.14.12.2010, which itself is without jurisdiction.

18. Other contentions as to the validity of the appeal filed by the respondents 2 and 3 through their GPA Holder against the issuance of 13 B Certificate to the writ petitioner as being not maintainable were also raised, but I am not inclined to go into the said aspect since it is not necessary at this point of time.

19. The Government Pleader for Revenue appearing for 1st respondent has not been able to point out any provision in the A.P. Rights in Land and Pattadar Passbook Act, 1971 empowering the 1st respondent to treat the land which is claimed by the petitioner and the respondents 2 to 4 as government land/Kharij Katha, merely because there was an application under Section 87 of the Act filed by respondents 2 to 4 which is pending before the Joint Collector, Ranga Reddy District.

20. Admittedly there was assignment of the subject land way back in 1953-54. On such assignment, it ceases to be Government land.

21. Taking advantage of the dispute between the petitioner and respondents 2 to 4, the 1st respondent cannot classify the subject land as Government land ostensibly to protect it from being alienated on a complaint being made by the 4th respondent, when it is not Government land any more.

22. Sri A.Narsimha Rao, counsel for 3rd respondent stated that the 2nd respondent died on 23.09.2002, that his legal representatives have been brought on record and that there was a joint GPA given by respondents 2 and 3 in favour of 4th respondent on 10.07.1989, on the basis of which the 4th respondent had acted, but the said GPA became void on the death of the 2nd respondent on 23.09.2002 and thereafter the

4th respondent cannot continue to act on behalf of respondents 2 and 3.

23. I am not inclined to go into this aspect also because it is not germane to decide the issue raised in this Writ Petition.

24. Sri Y.Krishna Mohan, counsel for 4th respondent sought to support the order passed by the 1st respondent on the ground that title to the land is with the respondents 2 and 3, on whose behalf the 4th respondent was acting, that the petitioner was trying to alienate the land to the prejudice of respondents 2 and 3, even though the application under Section 87 of the Act is still pending before the Joint Collector, Ranga Reddy District, and that the 1st respondent was justified in issuing the Memo dt.14.12.2010 as well as the proceeding dt.31.05.2011 addressed to the District Registrar, Ranga Reddy East Division

25. I have already held that the 1st respondent had no jurisdiction to issue either the memo dt.14.12.2010 or the proceeding dt.31.05.2011 and he cannot convert the land, which ceased to be Government land long back, again into Government land taking advantage of the dispute between the petitioner and respondents 2 and 3.

26. Therefore, I am not inclined to accede to the request of the counsel for 4th respondent to uphold the Memo

dt.14.12.2010 and proceeding dt.31.05.2011 of the 1st respondent, since they are clearly without jurisdiction.

27. Accordingly, the Writ Petition is allowed; both the Memo dt.14.12.2010 and proceeding dt.31.05.2011 of the 1st respondent are set aside; the Joint Collector, Ranga Reddy District is directed to dispose of the petition in D1/1215/2011 filed by the 4th respondent on behalf of respondents 2 and 3 against the petitioner under Section 87 of the A.P. (Telangana Area) Land Revenue Act, 1317 Falsi within a period of three (03) months from the date of receipt of a copy of this order. It is made clear that all parties are entitled to raise all legal and factual contentions available to them in the proceedings pending before the Joint Collector, Ranga Reddy District. There shall be no order as to costs.

28. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

04th April, 2017.

Note: Office to communicate copy of this order to the Joint Collector, Ranga Reddy District.

B/o
gra