

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P. Nos.12134 OF 2005 and 13885 of 2009

COMMON ORDER:

These two Writ Petitions are being disposed of by this common order, since parties to both the writ petitions are same and the same impugned order passed by the 1st respondent in exercise of power under Section 9 of A.P. Rights in Land and Pattadar Passbooks Act, 1971 (for short 'the Act') is questioned in both the writ petitions.

2. The petitioner in W.P.No.12134 of 2005 is Rajamani Venkataiah, and he is 4th respondent in W.P.No.13885 of 2009(hereinafter referred to as 'Venkataiah'). The 4th respondent in W.P.No.12134 of 2005 is Smt Y.Lakshmi Swaroopa and she is the Writ Petitioner in W.P.No.13885 of 2009(hereafter referred to as 'Swaroopa').

3. The subject land is an extent of Acres 14.67½ cents in survey No.169 of Srinagar Village, Maheswaram Mandal, Rangareddy District.

4. Venkataiah contended that he purchased the said land under a registered sale deed bearing document No.23280/1970 dt.10.08.1970, that he applied for mutation of his name in the revenue records before the 3rd respondent in the year 1992, and that by proceedings No.D/570/92

dt.30.07.1992, the 3rd respondent mutated his name in the revenue records.

5. On the other hand, Swaroopa contended that she is the owner of the land having purchased the same under registered documents No.2856/1990 dt.11.12.1990, 2859/1990 dt.11.12.1990, 2860/1990 dt.11.12.1990 and 2863/1990 dt.11.12.1990 for valuable sale consideration from one D.Ram Reddy and three others represented by their GPA Holder Sathi Venkat Reddy, S/o Narayana Reddy.

6. Swaroopa alleged that the sale deed relied upon by Venkataiah is brought into existence to defeat her right and she filed appeal under sub-section (5) of Section 5 of the Act in 1994 before the 2nd respondent. The said appeal was numbered as A2/6373/1994.

7. After issuing notice to Venkataiah, the said appeal was heard and was dismissed on 23.08.1997.

8. The said order was questioned by Swaroopa by way of Revision before the 1st respondent under Section 9 of the Act.

9. The 1st respondent allowed the revision and set aside both the orders of 2nd respondent as well as the 1st respondent and directed the both parties to approach

competent Civil Court for adjudication of their civil rights. While doing so, he observed that the sale deed dt.10.08.1970 in favour of Venkataiah was invalid.

10. Challenging the said order both Venkataiah and Swaroopa filed these writ petitions.

11. In W.P.No.12134 of 2005 filed by Venkataiah, he contended that while directing the parties to approach the Civil Court, the 1st respondent could not have made any comment on the sale deed dt.10.08.1970, being relied upon by him, and that the said observation is without jurisdiction, since he was not competent to decide the validity of any sale transaction.

12. In W.P.No.13885 of 2009, Swaroopa contended that when the 1st respondent declared the sale in favour of Venkataiah as invalid, he could not have directed both parties to approach Civil Court and he should have therefore held in her favour.

13. Heard counsel for respective parties as well as the Government Pleader for Revenue.

14. A reading of the order passed by the 1st respondent on 12.04.2005 shows that there were certain proceedings under

A.P. Revenue Recovery Act and a sale certificate had been issued to one M.Satyanarayana Reddy on 22.05.1964 by Collector Hyderabad District and Swaroopa claims through said Satyanarayana Reddy.

15. Venkataiah, on the other hand claims to have purchased the subject land in 1970 from A.Venkat Narayana Rao, the original owner of the land.

16. The Government Pleader for Revenue appearing for respondents 1 to 3 does not dispute the fact that while asking the parties to go to Civil Court, observations as to title of either party or of M.Satyanarayana Reddy could not have been made by the 1st respondent.

17. In view of the rival title pleaded by both parties, I am of the opinion that the 1st respondent in so far as he directed both parties to approach the competent Civil Court for adjudication of their right, title and interest in the subject property, did not make any mistake and that portion of the order of the 1st respondent cannot be said to be erroneous. However, while doing so, it was not open to the 1st respondent to comment on the validity of the sale deed dt.10.08.1970, on the basis of which Venkataiah made a claim to the property. Therefore, the finding of the 1st

respondent on the said sale deed is invalid and is hereby set aside. Even the finding on the entitlement of M.Satyanarayana Reddy for delivery of possession, as purchaser of the subject land, ought not to have been given by the 1st respondent and the said issue is also left open.

18. It is made clear that this Court has not expressed any opinion on the right, title, or interest of either party in respect of the subject property and it is left open to either party to approach the competent Civil Court for appropriate relief as against the other party. It is also made clear that the entries in the record of rights hereinafter shall be left blank till the issue relating to title is adjudicated by the competent Civil Court

19. Accordingly, the W.P.No.12134 of 2005 is partly allowed to the above extent and the W.P.No.13885 of 2009 is dismissed. There shall be no order as to costs.

20. Consequently, miscellaneous petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

13th February, 2017
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