

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.Nos.27750 & 27751 of 2007

COMMON ORDER

Heard learned counsel appearing for the petitioners, learned Government Pleader for Revenue appearing on behalf of respondents 1 and 2 and learned counsel appearing on behalf of respondents 3 to 9.

These two writ petitions arise out of the common order dated 10.12.2007 passed by the 1st respondent-Joint Collector in the appeals preferred by the petitioners as well as by the un-official respondents.

The petitioners and un-official respondents before this Court are subsequent purchasers and the land to an extent of Ac.1.26 guntas in Sy.No.45 of Narsapur Village and Mandal, Medak District, is in dispute. The said land originally belongs to the family of Gopala Rao, who has two sons by name Sesha Rao and Ranga Rao. On the basis of the statement made by the branch of Ram Gopal Rao, Occupancy Right Certificate (ORC) was issued by the 2nd respondent-Revenue Divisional Officer in respect of Ac.1.26 guntas in Sy.No.45 in favour of one A.Satyanarayana by proceedings dated 23.2.1984. In the said

proceedings, the branch of Sesha Rao are not parties and no notice was issued to them. In subsequent proceedings initiated by the family members of Sesha Rao, the 2nd respondent in Case No.H/3061/2003, 8.8.2005 issued ORC certificate in respect of an extent of Ac.0.33 guntas out of the total extent of Ac.1.26 guntas in Sy.No.45 of the said village to the branch of Sesha Rao. Challenging the same, the petitioners filed Appeal No.F3/57/Inam/2005 before the 1st respondent and the branch of Sesha Rao filed a separate Appeal No.F3/57/A/Inam/2005, challenging the grant of ORC in favour of A.Satyanarayana in respect of an extent of Ac.1.26 guntas *vide* proceedings dated 23.02.1984. The 1st respondent-Joint Collector after hearing the parties, set aside the ORC issued in favour of A.Satyanarayana by proceedings dated 23.2.84 in respect of total extent of Ac.1.26 guntas and upheld the ORC issued in favour of the branch of Sesha Rao to the extent of Ac.0-33 guntas.

Several contentions were raised disputing the findings recorded by the 1st respondent for passing such an order upholding the ORC issued in favour of the branch of Sesha Rao and setting aside the ORC issued in favour of A.Satyanarayana.

Learned counsel appearing for the petitioners submitted that the family members of Sesha Rao admitted the right of Ram Gopal Rao, who is successor of Ranga Rao in respect of the total extent of Ac.1.26 guntas and in those circumstances only, on the basis of the statement made by Ram Gopal Rao, ORC was rightly issued in favour of the purchaser A.Satyanarayana.

On the other hand, it is contended on behalf of the family members of Sesha Rao that A.Satyanarayana purchased the property only in the year 1982 and there cannot be any grant of ORC in favour of such a person when his name does not figure in the pahani for the year 1972-73, which is crucial for grant of ORC.

As stated above, the petitioners before this Court are subsequent purchasers from both the branches of family and they are claiming title by virtue of the ORCs granted in favour of A.Satyanarayana and R.Kamala Devi and others (Branch of Sesha Rao).

A perusal of the order of 2nd respondent dated 23.2.84 shows that no notice was issued to Kamala Devi and others (Branch of Sesha Rao) and that ground was taken by them in the appeal preferred before the 1st respondent.

From a reading of the order, it is apparent that no such notice was issued. In those circumstances, the 1st respondent should have remanded the matter to the 2nd respondent for consideration afresh in accordance with law. But, he gave a finding that there was tampering of record of pahani of 1973-74 by writing “swantham” and the name of “Satyanarayana”. He also came to the conclusion that the pen strokes, in other columns, of the word “swantham” are similar, whereas the word “Satyanarayana” appears to have been added. He also recorded, there was difference in colour of ink and writing also. The 1st respondent also recorded that Kamala Devi and Ram Gopal Rao are entitled to half share i.e., Ac.0-33 guntas and they are not entitled to the entire extent. If it is so, the statement of Ram Gopala Rao should be confined only to that extent, but the entire ORC issued in favour of Satyanarayana, is set aside.

There is no explanation from the learned counsel for the petitioners for not producing the documents before the 2nd respondent while granting ORC in respect of Ac.0-33 guntas to Kamala Devi and others though the present petitioners were made parties to the said proceedings. However, the present petitioners sought to produce several documents before this Court and submitted that those

documents were suppressed by Kamala Devi and others in the proceedings before the 2nd respondent. Similarly, when an opportunity was given to the petitioners no effort was made by the petitioners to produce the documents.

Now, the petitioners seek to produce before this Court several documents after obtaining them under the Right to Information Act and those documents require examination. Though the petitioners before this Court are subsequent purchasers, the entitlement of Satyanarayana for ORC has to be conclusively decided by the competent authority on the basis of documentary evidence produced before this Court. The rights of the parties also are required to be examined in view of the admission of Janaki Rama Rao belonging to the branch of Sesha Rao. In order to decide the claims of the parties, the land ceiling declarations and the partition list produced before this Court by the petitioners are also required to be examined in the light of entries and the circumstances prevailing in 1972-73. Since this matter involves adjudication of facts and the order of the 1st respondent was proceeded on the assumption that there was tampering of record and A.Satyanarayana was not entitled in view of such

tampering, the entire documentary evidence have to be examined.

In view of the above, this Court thinks it fit that ample opportunity should be given to the parties to produce evidence in order to give a quietus to the matter and in those circumstances this Court thinks that this is a fit case for remanding the matter to the 2nd respondent for deciding the same afresh with regard to the right of A.Satyanarayana to claim ORC and the right of Kamala Devi and others for 50% share of the land. Accordingly, the impugned orders of the 1st respondent-Joint Collector are set aside and the matter is remanded to the 2nd respondent-Revenue Divisional Officer, Medak/Narsapur for deciding the claims of the family members of Sesha Rao and Ranga Rao for the ORCs in respect of land of an extent of Ac.1.26 guntas situated in Sy.No.45 of Narsapur Village and Mandal, Medak District, afresh on the basis of oral and documentary evidence adduced by the parties. Both the parties are entitled to file necessary documentary evidence and adduce oral evidence, if any. In view of the long pendency of case, the 2nd respondent is directed to pass appropriate orders in accordance with law within a period of six months from the date of receipt of a copy of this

order. The petitioners and respondents 3 to 9 are directed to co-operate for disposal of the case by the 2nd respondent. The parties, who are in possession of the property as on today shall be entitled to continue in possession till an order is passed by the 2nd respondent.

Accordingly, both the Writ Petition are allowed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

7th June, 2017
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JUSTICE A.RAMALINGESWARA RAO

