THE HON'BLE SRI JUSTICE M.GANGA RAO

W.P.NO.1998 OF 2006

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed seeking to declare the proceedings No.A3/298/2003 dated 21.03.2004 of the 2nd respondent-Revenue Divisional Officer, Sanga Reddy, Medak District and the proceedings of the Joint Collector-1st respondent in No.F3/1993/2004-F3/4/ROR/2004 dated 18-01-2006 as illegal, arbitrary and contrary to the provisions of the A.P. Rights in Land and Pattadar Passbooks Act, 1971 (for short 'the Act'), A.P. Rights in Land Pattadar Pass Books Rules, 1989 (for brevity 'the Rules') and also provisions of the Indian Succession Act.

2. The case of the petitioner, in a nutshell, is that the land in Sy.Nos.95, 98, 104, 110 and 169 situated at Mela Sangam Village, Munipally Mandal, Medak District, was originally belonged to one Laxma Reddy, who is the husband of Smt.Lachamma. After death of Laxma Reddy, the entire property devolved upon his son Datta Reddy. During the life time of Datta Reddy, he acquired the property in Sy.No.4 of Mela Sangam Village, Munipally Mandal, Medak District, and the same was recorded in the revenue records. Hence, Datta Reddy had become the absolute owner of the lands. While so, Datta Reddy expired in the year 1961 and after his death, the entire property was transferred to his only daughter Smt.Anjamma. It is an admitted fact that by the time of transferring the properties infavour of Smt.Anjamma, Datta Reddy's wife Smt.Rukkamma and his mother Smt.Lachamma were alive.

3. Further, it is the case of the petitioner that an oral partition of the said properties had taken place on 15.08.1971 between the petitioner-Smt.Rukkamma, Smt.Anjamma and Smt.Lachamma. The said oral partition was reduced into writing in the form of Deed of Partition dt.26.08.1986, which was registered in the office of the Sub-Registrar, Sadasivapet, vide document No.1125/1986. The following table shows the shares falling upon each of the parties:

Sl.No.	Name of the Party	Sy.Nos.	Extent in Acs. Gts.
1)	Smt.Anjamma	95 98 104 110	1-20 7-30 1-27 6-00 (out of total extent extent of Acs.24-28 gts)
2)	Smt.Rukkamma	110	18-28 (out of total extent extent of Acs.24-28 gts)
3)	Smt.Lachamma	4 169	17-35 0-28

4. The total extent of land situated in Sy.No.4 is Acs.22.35 guntas and out of the same only Acs.17.35 guntas were allotted to Smt.Lachamma and the remaining extent of land stood in the name of Smt.Anjamma and petitioner and the same was reflected in the revenue records.

5. Further, it is the case of the petitioner that her mother-in-law i.e., Smt.Lachamma died in the year 1998. At the time of death of Smt.Lachamma, the only property left on her name is Acs.3.02 guntas in Sy.No.4 and Ac.0.28 guntas in Sy.No.169,

since the rest of the properties fell to her in the partition, were sold to various persons during her life time.

6. Be that as it may, Laxma Reddy-4th respondent filed an application on 04.05.1999 before the Mandal Revenue Officer, Munipally Mandal-3rd respondent stating that he is the adopted son of Smt.Lachamma and a Will deed purported to have been executed by Smt.Lachamma in his favour in respect of land admeasuring Acs.3.02 guntas in Sy.No.4 and Ac.0.28 guntas in Sy.No.169 and thereby requested the 3rd respondent to mutate the said property in his name. 3rd respondent had issued notice on 15.05.1999 calling for objections from all the interested persons and pursuant thereto the petitioner submitted her objections on 23.06.1999 categorically denying the claim of the 4th respondent and disputed the Will deed produced by him as being forged one and concocted for the purpose of illegal gain of properties, which were standing in the name of Smt.Lachamma and further contending that 4th respondent had not filed any declaration under the provisions of A.P. Land Reforms (Ceiling of Agricultural Holdings) Act, 1973 and also requested the 3rd respondent to mutate the properties stood in the name of Lachamma, in her name, since she is the only legal heir being daughter-in-law of Lachamma who is the mother of her husband i.e. Datta Reddy.

7. The Mandal Revenue Officer, after conducting a detailed enquiry as per the provisions of the Act and Rules made thereunder with regard to natural succession as per Rule 9(1) of the Rules and after holding that the Will Deed is not genuine and

is in dispute, ordered for mutation in the name of the petitioner vide proceedings bearing No.D/653/99, dated 24-12-2002.

8. Against which, the 4th respondent filed an appeal before the Revenue Divisional Officer, Sanga Reddy-2nd respondent under Section 5(5) of the Act. The R.D.O without considering the objections of the petitioner in proper perspective by conducting hotchpotch enquiry without power, authority or jurisdiction decided that the Will Deed is genuine and allowed the appeal filed by the 4th respondent and directed the 3rd respondent to take action accordingly to mutate the lands in favour of the 4th respondent. Being aggrieved by the said order, the petitioner preferred a revision before the Joint Collector-1st respondent under Section 9 of the Act stating that the 4th respondent is nothing to do with the family of the petitioner; Will deed is not a genuine one; and properties are in her possession and enjoyment. The Joint Collector, Sanga Reddy-1st respondent dismissed the revision while confirming the order of the 2nd respondent-RDO.

9. Being aggrieved by the orders passed by the appellate and revisional authorities, the present writ petition is filed contending *inter alia* that Revenue Divisional Officer as well as Joint Collector, on an erroneous appreciation of facts and law, passed the orders, impugned in this writ petition, and decided the Will deed to be genuine one. According to the petitioner, only the competent Civil Court can decide the genuineness or otherwise of the Will Deed and whoever claims the property under the Will Deed has to approach the competent Civil Court by filing a

properly instituted suit. But, the Joint Collector without considering the plea of the petitioner erroneously confirmed the order of the RDO.

10. Despite notice served on the unofficial respondent-4th respondent, none appeared on his behalf nor is there any representation on his behalf.

11. Heard the learned counsel for the petitioner as well as the learned Government Pleader for Revenue. The learned Government Pleader for Revenue sought to support the impugned orders passed by the 1st and 2nd respondents.

12. From the respective pleadings of the learned counsel for the petitioner as well as the learned Government Pleader for Revenue, the point that arises for consideration in this writ petition is 'Whether the revenue authorities are competent to decide the question of title, rights and succession by heirship, when there is a dispute under the provisions of the Act and Rules?'

13. POINT: The learned counsel for the petitioner contended that the finding of title recorded by the appellate and revisional authorities in favour of the 4th respondent is devoid of jurisdiction. He further contended that it is not open to the revenue authorities to go into the complex question or dispute of title over the immovable properties. In support of his contention, the learned counsel for the petitioner placed reliance on the judgments of this Court in *J.Krishnamachari v. State*

Government of A.P and others([1]); and *K.Pratap Reddy and others v. Joint Collector, Ranga Reddy District, Hyderabad and others*([2]), wherein it was held that revenue authorities, be it Joint Collector or the Revenue Divisional Officer acting in exercise of powers conferred by the Act and Rules, could not have resolved disputed questions of title in summary proceedings. It is only the Civil Court, in a properly instituted suit, which can adjudicate the disputes between the parties based on oral and documentary evidence and decide the disputed questions of title over the property.

14. He further contended that the objection raised by the writ petitioner as to genuineness of the alleged Will Deed, purportedly presented by the 4th respondent, was not considered in its proper perspective by the revenue authorities.

15. The learned counsel for the petitioner further contended that in an earlier occasion, the 4th respondent filed O.P.No.345 of 2003 before the Principal District Judge, Medak at Sanga Reddy, for probating the Will under Section 276 of the Indian Succession Act, 1925 and the said O.P was dismissed.

16. It is well settled by the Hon'ble Supreme Court and this Court, as well, time and again in a catena of Judgments that in respect of any grievance as to entries made in the record of rights, under the provisions of the Act, an aggrieved person has to take recourse to the Civil Court of competent jurisdiction by way of declaratory relief under the provisions of the Specific

[1] 2014(1) ALD 406
[2] 2009(2) ALD 212

Relief Act, 1963, *qua* the provisions of Sec.8(2) of the Act. Any decree or judgment passed by the Civil Court of competent jurisdiction in such a proceeding would be binding on the revenue authorities and the revenue authorities are bound to correct the revenue entries in accordance with the declaration/determination by the Civil Court.

17. Thus, the Joint Collector and Revenue Divisional Officer have committed error of fact and law in holding that the 4th respondent acquired the rights to the properties i.e., lands admeasuring Acs.3.02 guntas in Sy.No.4 and Ac.0.28 guntas in Sy.No.169 as per the alleged Will deed, which is seriously disputed by the petitioner, and instead they ought to have directed the 4th respondent to get appropriate orders from the Civil Court to mutate the land in his favour in revenue records.

18. Therefore, the writ petition is allowed setting aside the orders passed by the 2nd respondent-Revenue Divisional Officer, Sanga Reddy, Medak District vide proceedings No.A3/298/2003, dated 21.03.2004, as confirmed by the Joint Collector-1st respondent in proceedings No.F3/1993/2004-F3/4/ROR/2004 dated 18.01.2006, and giving liberty to the 4th respondent to approach the competent Civil Court, if he so desires.

19. Miscellaneous Petitions pending, if any, shall stand closed. No order as to costs.

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M.GANGA RAO, J

11.12.2017
TSNR