

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.25907 OF 2006

ORDER:

Heard learned Senior Counsel, Sri S.Satyanarayana Prasad for petitioners, learned Government Pleader for respondents 1 to 3 and learned Senior Counsel, Sri Vedula Venkataramana for respondents 5 to 14.

The case of the petitioners is that the first petitioner's mother, Smt.Raja Rani Bai died in 1979 leaving behind the first petitioner and his four brothers and three sisters. The petitioners 2, 3 and 4 are the daughters of his eldest sister, namely, Parvathi Bai. Smt Raja Rani Bai purchased half of the extent of land in Survey No.148 of Mankhal Village, which was in possession of one Kannaiah, who was the absolute owner of the property along with the lands in Survey Nos.151 to 157, 159 to 164 and 166 of Mankhal Village under Registered Sale Deed bearing No.115 of 1956, dated 19.09.1956.

The land in Survey No.148 of Mankhal Village is in an extent of Ac.21.12 guntas. Out of the same, an extent of Ac.2.02 guntas was acquired for the purpose of laying a road and an Award was passed on 04.09.1967. The half of the awarded amount was paid to the mother of the first petitioner and the remaining half was paid to the father of the respondents 5 to 7.

While so, the father of the respondents 10 to 14 filed a petition on 17.11.1996 before the second respondent seeking mutation of revenue records and he inturn forwarded it to the first respondent. The first respondent issued a notice to the first petitioner herein calling for his objections.

He submitted a reply on 19.12.1996. However, he passed an order on 28.01.1997 ordering for correction of entries in revenue records for the total extent of land in Survey No.148 in favour of one Mallapu China Lingaiah, the father of the respondents 10 to 14. Challenging the same, the petitioners

filed an Appeal before the second respondent, who passed an order on 23.04.1998 advising the petitioners herein to seek remedy of title in the competent civil Court while upholding the order of the Mandal Revenue Officer, first respondent. When a revision was filed before the third respondent, the third respondent also passed an order on 17.06.2006 holding that the revision petition is not maintainable on the ground that there are parallel civil proceedings and accordingly dismissed the revision with the following observations.

“On perusal of the material papers, it is noticed that the land in question was subject matter of a civil suit in O.S.No.29 of 1997 before Junior Civil Judge, Ibrahimpatnam. The parties herein were parties in the suit. The suit was decreed in favour of the petitioners herein on 07th September 2004.

The issues raised in the present revision petition have been elaborately discussed in the civil suit as well. The Civil Court has also taken cognizance of the proceedings of RDO A2/1731/1997, dated 23.04.1998 and MRO D/3964/1996, dated 28.01.1997 which are assailed herein.

In the light of the above facts, the instant proceedings only amount to parallel proceedings. As the civil court has taken note of the impugned proceedings in the said revision is unwarranted.

As observed by Hon'ble High Court of Andhra Pradesh in **V.Goutham Rao v RDO, Jagtial** (2003 (1) ALT 615, “Ultimately it is the finding of the civil court which governs the field and which has to be given effect to and entries are to be made accordingly. In view of the same, the entire exercise by the authorities under the Act would be nugatory.

In the light of the fact that the very same land in question was subject matter of a civil suit in O.S.No.29 of 1997 and that the civil court has already decreed the same and that the proceedings impugned herein were also carefully examined in the civil suit; the instant proceedings definitely amounts to parallel proceedings and is redundant and unwarranted.

Therefore, the revision petitions are not maintainable on the ground that they amount to parallel proceedings.

Hence, the petitions are dismissed.”

Today when the matter is taken up for consideration after perusing the record, it came to light that the first respondent, Mandal Revenue Officer, issued proceedings on 28.01.1997 under sub-section 4 of Section 5-A of the Andhra Pradesh Rights in Land and Pattadar Passbooks Act, 1971 ('Record

of Rights Act', for brevity) in favour of the father of the respondents 10 to 14 in respect of an extent of Ac.7.33 guntas only in Survey No.148 of Mankhal Village, Maheswaram Mandal, Ranga Reddy District. The said fact is admitted by both the parties before this Court. This is supported by a Statement made by the father of the respondents 10 to 14 before the Land Acquisition Officer, recorded in the presence of Patwari.

"Kannaiah lal was the original pattedar. He died long ago. We purchased land from his son in 1950, total extent of the land was 21 acre 12 guntas, half of the area was purchased by my father and half of the area was purchased by Smt Raja Rani Bai. My land is situated on the eastern side to the Kunta and to my east, land of Raja Rani bai is situated, to my north the lands of Janadan Prasad (S.No.142) are situated. I am the owner to the extent of 10 acre 26 guntas. We purchased the land about (20) twenty years ago. An extent of 1 acre 1 gunta has been acquired roughly out of my portion of the land the no. of trees noted in panchanama are correct (50%) Half of compensation for the trees may be paid to me and half of the compensation may be paid to Smt Raja Rani Bai about ten years ago. The land was taken for laying road. We are five brothers but I am the eldest and guardian of the family".

In that view of the matter, the mutation can be effected only in respect of the said extent of land only, but the first respondent travelled beyond the said extent and granted mutation by his proceedings dated 28.01.1997 in respect of entire extent of land in Survey No.148 of Mankhal Village. That is taken objection by the petitioners in the Appeal before the Revenue Divisional officer as well as in the Revision before the Joint Collector, but the Revenue Divisional Officer as well as Joint Collector, respondents 2 and 3, advised the petitioners herein to go to the civil Court. In view of the admitted fact of issuing a Certificate under sub-section 4 of Section 5A of the Record of Rights Act to the father of the respondents 10 to 14 only to the extent of Ac.7.33 guntas in Survey No.148 of the Mankhal Village, there cannot be any mutation for the entire land and the mutation shall be confined only to the said extent of Ac.7.33 guntas in favour of the father of the respondents 10 to 14. In view of the same, the first respondent is directed to make

necessary corrections in the revenue records by incorporating the name of the father of the respondents 10 to 14 only to the extent of Ac.7.33 guntas in Survey No.148 of Mankhal Village, Maheswaram Mandal, Ranga Reddy District, pursuant to the application made by the father of the respondents 10 to 14.

The writ petition is accordingly allowed to the extent indicated above. Consequently, miscellaneous petitions pending, if any, shall also stand closed.

A.RAMALINGESWARA RAO, J

21.07.2017
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