IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

* * * *

WRIT PETITION No.8880 OF 2003

Between:

M.Bhaskar Reddy

....Petitioner

and

The Director of Settlements, A.P., Hyderabad,
And others.

....Respondents

JUDGMENT PRONOUNCED ON : 12.07.2017

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? : Yes

2. Whether the copies of judgment may be Marked to Law Reporters/Journals? : Yes

3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? : Yes

*** THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO**

+ WRIT PETITION No.8880 OF 2003

% 12.07.2017

M.Bhaskar Reddy

…Petitioner

vs.

$ The Director of Settlements,
A.P., Hyderabad,
and others.

… Respondents

!Counsel for the Petitioner : Sri K.G.Krishna Murthy, Senior Counsel,
For
Sri K.Rama Mohan Mahadeva

^Counsel for the Respondent : GP for Revenue
Sri D.V.Bhadram

<Gist :

>Head Note :

? Cases referred

1. (2015) 3 SCC 695
2. 1992 (2) ALT 464
3. AIR 2003 SC 3592
4. 1998 (6) ALD 594
5. 2013 (3) ALD 254 : 2013 (2) ALT 540
6. AIR 2000 SCW 835
7. (1996) 5 SCC 550

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.8880 OF 2003

ORDER:

Heard learned counsel for petitioner and learned Government Pleader for respondents.

The petitioner states that he purchased the land in Survey Nos.85/7, 8, (18), 20 of an extent of Acs.5.00 of Laddigam Village from one P.Siddamraju under registered sale deed, dated 01.06.1968, for a valid consideration. The Survey No.85/18 was re-numbered as 20 in the revenue records. He also claims to have purchased the land in Survey No.85/6, which is of an extent of Acs.2.00 of the same village from one Venkata Reddy under registered sale deed in 1971. The said Venkata Reddy purchased the land from Sri P.Siddamraju. Thus, he claims to have been in possession of an extent of Acs.7.00 from the date of purchase. He also states that his vendors were in possession of the land for more than 40 to 50 years prior to his purchase. After his purchase, he developed the land, dug a well and also laid a borewell by spending substantial amounts.

While so, his vendor filed an application before the Assistant Settlement Officer, Chittoor for grant of ryotwari patta. The Assistant Settlement Officer conducted an enquiry under Section 11(a) of the Estates Abolition Act, 1948 and granted ryotwari patta in respect of the above survey numbers and also other survey numbers by order, dated 15.01.1966. When the Tahsildar, Punganuru tried to evict him in the year 1982 terming him as an encroacher of the Government land, he filed W.P.No.1677 of 1982 and obtained stay of dispossession. Later on, the said writ petition was disposed of on 17.09.1987 with a direction that he shall not be dispossessed from his land till his representation is disposed of. While so, the first respondent exercised *suo motu* revisional powers under Section 5(2) of the Estates Abolition Act and passed an order on 12.05.1983 in R.P.No.22 of 1977

setting aside the orders passed by the Assistant Settlement Officer, Chittoor, dated 15.01.1966 without issuing any notice to him. Challenging the same, the petitioner filed W.P.No.7664 of 1984, which was ultimately disposed of on 08.12.1987 by setting aside the orders of the first respondent and remanding the matter for fresh enquiry after giving reasonable opportunity to the petitioner, and also to the affected persons including his vendor. After remand, a show cause notice was issued by the first respondent in R.P.No.22/77-H, dated 05.08.1984 directing him to produce relevant documents on certain aspects. The petitioner states that he engaged an advocate and filed his application raising several grounds, and that his vendor Sri P.Siddamraju filed certain documents under Exs.P.1 to P.3. The said P.Siddamraju was examined as P.W.1 and adjacent ryot was examined as P.W.2. The first respondent passed an order on 21.04.1996 holding that there was no evidence for conversion of tank bed land into ryoti with the permission of the Collector under Section 20(A) of the Estates Abolition Act and the petitioner was not in continuous possession during the crucial period before the abolition of the estates. Challenging the said orders, the petitioner preferred revision before the second respondent in the year 1997 and the second respondent dismissed the revision by order, 30.12.2002 on the ground that the vendor took back the documents filed before the Assistant Settlement Officer, no documents were filed by the petitioner to show that the District Collector passed an order converting the tank bed land into a ryoti under Section 20(A) of the Estates Abolition Act and the land is a tank poramboke which vested with the Government. Challenging the said orders, the present writ petition was filed.

This Court while admitting the writ petition on 06.05.2003 directed the respondents not to dispossess the petitioner from the land.

A counter affidavit is filed on behalf of the respondents by the District Collector, Chittoor, stating that the Assistant Settlement Officer, Chittoor

granted patta in S.R.No.854/11(a)/65 on 15.01.1966 in favour of one P.Siddamraju. Challenging the same, one T.Hanumanthu filed revision before the Director of Settlements stating that the landholder had granted him patta for Acs.6.80 cents in Survey No.85/4 of Laddigam Village in 1951 and that he is not aware of the settlement patta granted to Sri P.Siddamraju on 15.01.1966. The Director of Settlements passed an order on 20.03.1976 to maintain *status quo* and accordingly the lands were treated as poramboke lands. Ultimately, the revision was rejected by order, dated 09.02.1977. The Commissioner and Director of Settlements took up *suo motu* revision in RP.22/77 against the orders of the Assistant Settlement Officer, Chittoor, dated 15.01.1966. The *suo motu* enquiry was conducted and the patta was cancelled on 12.05.1983 after giving opportunity to the petitioner. The present petitioner purchased the lands from the said Sri P.Siddamraju during the years 1968 to 1975 through registered sale deeds. He filed W.P.No.7664 of 1984 against the orders of Director of Settlements, dated 12.05.1983 in respect of the total extent of Acs.7.00. The writ petition was ultimately disposed of directing the Director of Settlements to pass orders in the pending *suo motu* proceedings, while setting aside the order, dated 12.05.1983. Thereafter, the Commissioner and Director of Settlements took up the enquiry duly issuing notice under Section 5(2) of the Estates Abolition Act and rejected the revision by orders, dated 11.04.1996. Challenging the same, the petitioner filed an appeal before the Commissioner of Appeals, who also confirmed the orders of the Director of Settlements, by order dated 30.12.2002. Challenging the same, the petitioner filed the present writ petition.

He further stated that the lands in Survey No.85/4 etc of an extent of Acs.30.06 cents were classified as 'Laddigam Tank Poramboke' as per the village accounts and in respect of those lands only, the Assistant Settlement Officer issued patta on 15.01.1966. As per the Zamindar Adangal Fasli

1352, Laddigam village at Paimaish No.84 measuring a total land of an extent of Acs.188.48 cents was described as water spread area of the tank and P.No.83 was described as Laddigam tank bund and P.No.84 lies in the water spread area of Laddigam tank. The said tank is an old tank existing since 1920. The land was part of erstwhile Punganur Zamindari Estate, which is covered by the Estates Abolition Act. There are no fields bearing P.Nos.97, 100, 103 and 104 correlated to Survey Nos.85/18P in Laddigam village as per Paimaish Adangal of Fasli 1932, which was approved by ex-Zamindar on 04.04.1944. The petitioner purchased the land during the years 1968-75 and the survey and settlement operations were completed in 1956 itself. The lands were settled after adopting the procedure under the Estates Abolition Act, 1948. Hence, the sale deeds executed by the vendors in respect of the Government tank poramboke lands are not valid. As per Section 3(b) of the Estates Abolition Act, the tank bed poramboke lands vested with the State and they are not ryoti in nature and hence, no ryotwari patta can be granted for the same. It is further stated that unauthorized and illegal operations in the tank bed would not alter the character of the land. The said P.Siddamraju had no patta in his name and thus, he is not having any proprietary rights over the lands. The Assistant Settlement Officer has not verified the pre-abolition records and granted patta for the above land to Sri P.Siddamraju on 15.01.1966. The petitioner herein worked as VDO in Chowdepalli Panchayat Samithi and retired as VDO in Somala Mandal. The said P.Siddamraju filed an application for grant of patta after 14 years of survey and settlement operations and though the schedule lands are non-ryoti lands, the Tahsildar, Punganur was not given any opportunity to put forth his case while granting patta.

The learned senior counsel, Sri K.G.K.Murthy strenuously contended that the *suo motu* revision taken up by the Commissioner and Director of

Settlements, after long lapse of time is bad in law and the order of the Assistant Settlement Officer should be upheld.

The facts in the present case are not disputed. The Laddigam village is a part of erstwhile Punganur Zamindari Estate and survey and settlement operations were taken up in the year 1952-56. The writ petitioner purchased the lands in the year 1968-75. The village records show that the land in Survey No.85/4 was classified as Laddigam tank poramboke and the water spread area of the tank is situated P.No.84, admeasuring an extent of Acs.188.48 cents. P.No.83 was described as Laddigam tank bund. The said tank was in existence since 1920. The Assistant Settlement Officer granted patta on 15.01.1966 for the following lands.

Name of the village	P.No.	S.No.	Extent
Laddigam Village, Chowdepalli Mandal	84P	85/4	6.80
	84P	5	1.90
	84P	6	2.00
	84P	7	1.92
	84P	8	2.00
	85P	9	0.87
	100, 103, 104, 97	18P	14.57
		Total	30.06

A perusal of the order of the Assistant Settlement Officer, dated 15.01.1966 shows that the land, for which ryotwari patta was sought, was classified as tank poramboke but it was observed that they are away from the tank water spread area and are not ordinarily submergible. He also observed that the lands are at the extreme West of the tank and the bund is in the East at a distance of more than half a mile and there was no water at the time of inspection. He also noticed that the tank bed is Acs.296.08 cents and strangely observed that the extent of Acs.30.00 would not diminish the storage capacity of the tank. It was stated that the claimant must have been deemed to have occupancy (acquired occupancy) rights over them. Accordingly, he granted patta, but the record produced by the learned Government Pleader shows that the lands are not situated at the

extreme west of the tank as observed by the Assistant Settlement Officer. The lands are situated on the western side within the bund. The ground shown that out of Acs.296.00, Acs.30.00 would not diminish the storage capacity or on the presumption that the claimant was under deemed occupancy are not the grounds for grant of patta. No doubt the Director of Settlements took up *suo motu* revision after 17 years, but he stated the following grounds:

> "1. Patta has been granted by the Additional Assistant Settlement Officer, Chittoor, relying only on the evidence produced by the claimant grantees without examining corroborative evidence in the shape of pre-abolition records to ascertain whether the suit land was ryoti in nature and whether the grantee was actually into possession of the suit land prior to 01.07.1945.
>
> 2. Sufficient opportunity was not given either to the Tahsildar or Collector who are supposed to safeguard the interest of the Government, if any especially when the suit land was described as water spread are.
>
> 3. Any other reasons which would be brought to light during the course of *suo motu* revisional enquiry."

The Director of Settlements, by order dated 12.05.1983, set aside the order of the Assistant Settlement Officer, dated 15.01.1966, with the following observations:

> "Heard the arguments and perused the lower Court's records and D.Dis.No.8969/76 of my predecessor as well as the following records produced by the Collector, Chittoor.
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> 1. S.R.file bearing No.854/11(a)/65-Pgn.
> 2. Paimaish Adangal of Laddigam Village Fasli 1352
> 3. An extract of Fair Adangal of Laddigam Village.
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> It is seen from the lower Court's case record that the documents produced by the respondent were taken away by him. But no documents have been produced before me to examine the genuineness of the documents with the pre-abolition records such as Paimaish Adangal for F.1352, though notices were served on him. The Paimaish Adangal for F.1352 shows that neither the name of the respondent nor Sri T.Hanumanthu finds place in this paimaish adangal and that their names are not shown as occupants. The Additional Assistant Settlement Officer, Chittoor, granted a ryotwari patta to the schedule lands in favour of the respondent without verifying the pre-abolition records and without giving opportunities to the Tahsildar, Punganur. The Adangal shows that the schedule lands are described as water spread and tank bund and they are not ryoti lands."

Though the petitioner filed an appeal as aforesaid, the beneficiary of patta, Sri P.Siddamraju and petitioner filed W.P.Nos.7664 of 1984 and 9172 of 1985, and this Court by orders dated 08.12.1987 and 11.11.1987 set aside the orders of Director of Settlements and remanded the case to Director of Settlements for fresh enquiry. Thereafter, the petitioner was put on notice. This notice by the appellate authority also shows that the lands are tank bed lands and they are non-ryoti in nature. The revision petitioner failed to file the order passed by the District Collector for conversion of non-ryoti lands i.e., tank bed lands into ryoti lands, and accordingly dismissed the revision with the following observations:

> "Even in this Court, the revision petitioner had not filed any additional documentary evidence in support of his claim such as permission order granted by the District Collector as required under Section 20(a) of the E.L.Act, 1908 or any other documentary evidence, such as Zamindari Patta or Cist Receipts pertaining to pre-abolition period. All the documents filed by the learned counsel for the revision petitioner are pertaining to subsequent to the grant of ryotwari patta by the Additional Assistant Settlement Officer, Chittoor in the year 1966. Therefore, these documents have no legal validity to establish the title of the revision petitioner as required under Section 11(a) of the E.A.Act, 1948. Further, the decisions referred by the learned counsel for the revision petitioner are no way helpful to establish the title of the revision petitioner, since the very nature of the schedule lands itself tank poramboke, which are vested with the Government and meant for public purpose. Therefore, I see no reason to interfere with the orders passed by the D.O.S.No.R.P.No.22/77, dated 11.04.1996 and thus, the Revision Petition dismissed."

Thus, the nature of the lands was conclusively held to be tank bed lands and the petitioner was given an opportunity to represent his case. In view of the lands being tank bed lands, it cannot be held that the exercise of *suo motu* powers after 17 years from the date of grant of patta in favour of the petitioner is bad in law. In any event, the petitioner purchased the lands during 1968-75 and the *suo motu* powers were exercised in the year 1983, i.e., five years after his purchase.

In the present case, the patta issued in favour of P.Siddamraju was under challenge before the Director of Settlements by virtue of the revision filed by T.Hanumanthu since 1976.

Learned senior counsel Sri K.G.K.Murthy, understanding the weakness in the case in view of the nature of the land, concentrated on the maintainability of the *suo motu* revision by the Commissioner and Director of Settlements. He relied on the decisions in **Joint Collector v D.Narsing Rao**[1], **Kalleti Chengaiah v Director of Settlements**[2], **Ibrahimpatnam Taluk Vyavasaya Coolie Sangham v K.Suresh Reddy**[3] and **Koyya Veeraju v Mandal Revenue Officer, Gollaprolu**[4].

Though the above decisions point out that *suo motu* powers should be exercised within reasonable time, when a patta was obtained in respect of a land recorded as tank poramboke in the village accounts, the grant of patta itself is contrary to law. Such an illegal Act can be set aside at any point of time and no period of limitation exists for rectification of such illegality.

A Division Bench of this Court in **Md.Qhairunnisa Begum v. Shaik Kusheed Begum**[5] examined the case of exercise of *suo motu* revision after 25 years of granting patta in favour of the petitioner. The Division Bench, after considering the decisions in **United India Insurance Co. Ltd. v. Rajendra Singh**[6] and **Indian Bank v. Satyam Fibres (India) Pvt. Ltd.**[7], held that fraud vitiates every proceeding and merely because of lapse of time since the date of grant of patta is no ground to reject the claim of authorities to revise such fraudulent orders. The Division Bench upheld the action of the revisional authority in initiating *suo motu* revisional powers. In the facts and circumstances of that case, the Division Bench set aside the order and remanded the matter to the Commissioner and Director of Settlements, Hyderabad, to take up *suo motu* revision and dispose of the same.

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[1] (2015) 3 SCC 695
[2] 1992 (2) ALT 464
[3] AIR 2003 SC 3592
[4] 1998 (6) ALD 594
[5] 2013 (3) ALD 254 : 2013 (2) ALT 540
[6] AIR 2000 SCW 835
[7] (1996) 5 SCC 550

In view of the same, I do not find any reason to interfere with the order passed by the first respondent, dated 11.04.1996, which was confirmed by the second respondent, by order, dated 30.12.2002, and the writ petition is accordingly dismissed. Miscellaneous petitions, if any pending, shall stand closed.

A.RAMALINGESWARA RAO, J

12.07.2017
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HIGH COURT OF JUDICATURE AT HYDERABAD FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
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