

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.24994 of 2007

ORDER:

Heard the learned Counsel for the petitioners, learned Government Pleader and the learned Counsel for respondent Nos.3 and 4.

The dispute in the present case relates to Acs.9.00 of land situated in Survey No.137 of Aziznagar Village, Moinabad Mandal in Ranga Reddy District. The facts in the instant case are that the land of an extent of Acs.18.15 guntas in the said survey number was being called "Manchagadda Chelka" and the land holder was Abdul Khader Hakeem, S/o.Dawood Ali, Puranapool. There was a dispute with regard to the protected tenant. However, at one point of time, the Revenue Divisional Officer, Chevella Division, examined the claim of the branch of Yadagiri Muthaiah and by proceedings dated 28.09.1987 held that he was a protected tenant for an extent of Acs.18.15 guntas and also held that he was eligible for purchase of an extent of Acs.9.15 guntas as per the records published in Form-I on 31.01.1975. Accordingly, a certificate under Section 38E of the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950 (for short, the Act), was issued in his favour by the Additional Revenue Divisional Officer, Land Reforms, Hyderabad West Taluq in File No.LRW/153/75, dated 31.05.1975. It was confirmed in File G/5721/87, dated 28.09.1987, and a certificate under Section 38(6) of the Act was

issued. Accordingly, the sons of the said Yadagiri Muthaiah were given pattadar pass books for an extent of Acs.9.15 guntas. However, when his sons claimed succession under Section 40 of the Act for the balance extent of Acs.9.00 also, the Mandal Revenue Officer, Moinabad, by his proceedings dated 11.06.2001 taking into consideration the earlier proceedings and reports of the VAO, Aziznagar, rejected the request of the sons of Yadagiri Muthaiah. Against the same, they went in appeal to the Joint Collector, Ranga Reddy District, who set aside the order by proceedings dated 13.11.2006 and remanded the matter back to the Mandal Revenue Officer, Moinabad, to decide the matter afresh by taking into consideration the extent which was shown under protected tenancy, if necessary, by referring to the Calculation Memo in the connected LRW file by issuing fresh notices to the parties. After remand, when an order was passed by the Mandal Revenue Officer, Moinabad Mandal, on 09.04.2007, granting succession to the sons of Yadagiri Muthaiah, namely Yadagiri Ramaiah and Vittalaiah, respondent Nos.3 and 4, the present Writ Petition was filed by the petitioners belonging to the branch of Manche Ramaiah.

Learned Counsel for the petitioners submits that though the petitioners are also claiming their rights under protected tenants, but due to their ignorance they could not get the rights and their default enabled respondent Nos.3 and 4 to get the rights under protected tenants and after enquiry, a certificate was issued to them for an extent of Acs.9.15 guntas for which

they were entitled and the claim of respondent Nos.3 and 4 in respect of the balance extent is untenable. He relied on the observations made by the Mandal Revenue Officer, Moinabad, in his proceedings dated 11.06.2001.

Learned Counsel appearing for respondent Nos.3 and 4 could not substantiate the claim, but stated that the impugned order is appealable and in any event if there was any grievance for the petitioners, the petitioners should have approached the competent Civil Court.

The relevant portion of the impugned order passed by the Mandal Revenue Officer, Moinabad Mandal, dated 09.04.2007, reads as follows:

“As per latest pahani the entries in respect of Sy.No.137 (18-15) are as below.

1.	137/A	9-00	Mohd.Ismail Habeebuddin S/o Abdul Khadar	Manche Ramaiah Mogulapally Sathi Reddy	(9-00)
2.	137/A1	2-27	Ramaiah Yadagiri S/o Muthaiah	Ramaiah Yadagir	(2-27)
3.	137/A2	2-00	Chenna Reddy Mogulapally S/o Laxma Reddy	Chenna Reddy	(2-00)
4.	137/E	4-28	Vittalaiah Yadagiri S/o Muthaiah	Vittalaiah	(4-28)

As could be seen from above entries, it is clear that the total extent is Ac.18-15 out of which for an extent of Ac.9-15 Gts. 38/E Certificate and also Certificate under Sec.38 of Hyderabad Tenancy Act 1950 was issued in favour of the petitioners Sri Yadagiri Ramaiah and Vittalaiah sons of Muthaiah. For the balance Ac.9-00 Gts. Sri Ismail and Habeebuddin are pattadars and Sri Manche Ramaiah and Sathi Reddy are in possession.

In view of the foregoing facts the petitioners are eligible for Succession of P.T.Rights to the balance Ac.9-00 Gts.

Therefore Succession Orders under section 40 of A.P.(T.A.) Tenancy and Agricultural Lands Act 1950 are issued in favour of Sri Yadagiri Ramaiah and Vittalaiah sons

of Muthaiah R/o Aziznagar Village in respect of land in Sy.No.137/A, Ac.9-00 Gts. situated at Aziznagar Village.”

A reading of the above order clearly shows that the names of the petitioners’ predecessor in interest was recorded as person in possession, whereas Ismail and Habeebuddin were recorded as pattadars. Though the said fact was taken into consideration by the Mandal Revenue Officer, it is not known how he passed an order in favour of respondent Nos.3 and 4 making them eligible for succession of P.T.Rights to the balance extent of Acs.9.00. A perusal of the order itself found to be self-contradictory and in view of the same, this Court thought it not fit to relegate the parties to avail the remedy of appeal, as there is error apparent on the face of the record. This Court also carefully perused the history of the case and the previous proceedings of the Revenue Divisional Officer granting rights to respondent Nos.3 and 4 by proceedings dated 28.09.1987 only to an extent of Acs.9.15 guntas and issuing pattadar pass books and title deeds for the said extent. Having kept quiet, after thirteen years the present proceedings were initiated by respondent Nos.3 and 4 claiming succession to the balance extent, and there is no proof for their claim.

In the circumstances, the impugned order suffers from an error apparent on the face of the record and in view of the *prima facie* evidence of possession of the petitioners in respect of the land of an extent of Acs.9.00 in Survey No.137 of Aziznagar Village, the impugned order is set aside. However, this will not

preclude respondent Nos.3 and 4 from establishing their rights, if any, in a competent Civil Court.

The Writ Petition is, accordingly, allowed. The miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. There shall be no order as to costs.

16.06.2017
vs

(A.RAMALINGESWARA RAO, J)

