THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE Mr. JUSTICE ABHINAND KUMAR SHAVILI

WRIT APPEAL NO.1698 OF 2017

JUDGMENT: (Per the Hon'ble Mr. Justice Abhinand Kumar Shavili)

1. This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in W.P. No. 2616 of 2012 dated 13.7.2016, whereunder the order of the 3rd respondent therein in proceedings No.ROR/D/7248/05, dated 21.1.2009 and the orders of the 2nd respondent in proceedings No.C/765/2009 dated 9.3.2010 and the 1st respondent in Case No.D1/1959/2010, dated 13.1.2012 were set aside, and the matter is remitted to the 3rd respondent therein to pass appropriate orders afresh.

2. Heard Sri E. Ajay Reddy, learned Counsel for the appellants and L. Prabhakar Reddy, learned Counsel for respondents Nos.1 to 3-writ petitioners.

3. Respondents Nos.1 to 3 herein filed the above writ petition claiming that they purchased an extent of Acs.5.21 guntas in Survey No.295/2 which, according to them, is equivalent to Survey No.295/AA in Puppalguda village, Rajendranagar Mandal, Ranga Reddy District under two registered sale deeds dated 6.1.2004. The 1st appellant herein filed an application under Section 5-A of the A.P. Rights in Land and Pattadar Passbooks Act, 1971 (for short, 'the Act') in Form X before the 6th respondent herein-Mandal Revenue Officer, seeking regularization on the basis of an unregistered sale deed dated 15.12.1972 said to have been executed in his favour by one S.N. Sastry to an extent of Ac.5.21 guntas in Sy.No.295/2 and Ac.4.19 guntas in Sy.No.296/1 of Puppalguda village.

The 6th respondent herein issued orders in ROR/D/7248/05, dated 21.1.2009 regularizing an extent of Ac.5.21 guntas in Sy.Nos.295/A and 4.19 guntas in Sy.No.296/LU of the said village by collecting a sum of Rs.1,050/- from the 1st appellant. Certificate in Form XIII-B containing these details was issued on 21.1.2009 to the 1st appellant. Assailing the said order, an appeal was preferred by respondents 1 to 3- writ petitioners before the 5th respondent herein on the ground that the 6th respondent herein could not have directed regularization of the alleged unstamped and unregistered sale deed produced by the 1st appellant, without serving any notice on respondents Nos.1 to 3-writ petitioners, more particularly, when such unstamped and unregistered sale deed was sought to be regularized after thirty six years of its execution. The 5th respondent herein issued notice to the 1st appellant and by proceedings dated 9.3.2010 dismissed the said appeal while observing that the lands claimed by both the parties might be different though they fall in the same survey number within a total extent of Ac.19.16 guntas since the boundaries reveal a marginal difference. Challenging the order of the 5th respondent herein, respondents Nos.1 to 3- writ petitioners filed a revision before the 4th respondent. Pending the revision, the 1st appellant died and his legal representatives were impleaded as respondents Nos.5 to 11. The 4th respondent dismissed the revision while observing that survey No.295/2 cannot be under possession by both parties at the same time, and there is a need for localization of the subject land which is in possession of the respective parties. Assailing the same, respondents Nos.1 to 3- writ petitioners filed the above writ petition.

4. The learned Single Judge allowed the writ petition setting aside the proceedings dated 21.1.2009 of the 6th respondent herein and the

consequential proceedings of the 5th respondent and the 4th respondent herein, dated 9.3.2010 and 13.1.2012 respectively, and remitting the matter back to the 6th respondent-Mandal Revenue Officer herein while directing him to issue notice to respondents Nos.1 to 3-writ petitioners and cause survey to be done through the Assistant Director of Survey and Land Records, Ranga Reddy District, over the lands claimed by the writ petitioners and the lands claimed by the 1st appellant and then, to decide whether respondents Nos.5 to 11 in writ petition, who are legal representatives of the 1st appellant herein, or the persons claiming through them are entitled to form XIII B certificate under Section 5 A of the Act. Aggrieved by the order of the learned Single Judge in the writ petition, the present appeal has been preferred.

5. The learned Counsel appearing for the appellants contended that the names of the writ petitioners were never reflected in the pahani patrikas and hence, they cannot be treated as interested persons, and no notice is required to be served on the writ petitioners. He further contended that though a sale deed was executed by S.N. Sastry in favour of the vendor of the writ petitioners, by the time of execution of the sale deed, the said property was transferred in favour of the ancestors of the appellants through an unregistered sale deed and that the sale deed executed in favour of the vendor of the writ petitioners is not a valid document. He further contended that the regularization proceedings issued under Section 5 A of the Act by the Mandal Revenue Officer in favour of the 1st appellant is in respect of Ac.10.00 comprising of Sy.No.295/1 admeasuring Ac.5.21 guntas and Sy.No.296/1 admeasuring Ac.4.19 guntas and out of the same, the claim of the writ petitioners is only in respect of Ac.5.21 guntas in Sy.No.295/1 and that without there being any grievance

in respect of the balance land of Ac.4.19 guntas, the order passed by the learned Single Judge setting aside the proceedings in respect of the balance land admeasuring Ac.4.19 guntas in Sy.No.296/1 also, is absolutely illegal and therefore, the order passed by the learned Single Judge needs interference.

6. The learned Counsel appearing for respondents Nos.1 to 3, who are writ petitioners, contended that without issuing any notice to these respondents, who are actual purchasers and who got pattadar pass books and title deeds, the Mandal Revenue Officer allowed the application of the 1st appellant and granted XIII B certificate and that the order passed by the learned Single Judge does not warrant any interference. He further submitted that in pursuance of the orders of the learned Single Judge, the Mandal Revenue Officer initiated proceedings for conducting an enquiry and the Assistant Director, Survey & Land Records issued notice of survey to all the parties including the appellants herein fixing the date of survey on 31.3.2017 and in pursuance of the said survey notice, the appellants also participated in the survey and that the said survey has been completed and the proceedings are pending before the Mandal Revenue Officer.

7. The learned Government Pleader appearing for the official respondents fairly conceded that no notice was issued by the Mandal Revenue Officer before regularizing the un-registered sale deed in favour of the 1st appellant, to respondents Nos.1 to 3 herein.

8. We have considered the rival submissions made by the parties, Upon perusing the records, it is apparent that the unofficial respondents Nos.1 to 3 in the appeal claimed to have purchased Ac.5.21 guntas in Sy.No.295/2 and 295/AA of Puppalguda village, Rajendranagar Mandal,

Ranga Reddy District vide registered sale deed dated 6.1.2004, whereas the appellants herein are relying on an unregistered sale deed dated 15.12.1972 said to have been executed in favour of the 1st appellant by one S.N. Sastry to an extent of Ac.5.21 guntas in Sy.No.295/2 and Ac.4.19 guntas in Sy.No.296/1 of Puppalguda village. The 6th respondent -Mandal Revenue Officer had regularized the unregistered sale deed dated 15.12.1972 vide order dated 21.1.2009 without issuing any notice to respondents Nos.1 to 3 herein. Respondents Nos.1 to 3 herein had preferred an appeal before the 5th respondent herein and the said appeal was dismissed. Aggrieved by the same, respondents Nos.1 to 3 herein filed a revision before the Joint Collector, Ranga Reddy District, who by order dated 13.1.2012 dismissed the revision with an observation that the survey No.295/2 cannot be under possession of both parties at the same time, and there is a need for localization of the land in the said survey number. In spite of such observations, the 4th respondent herein disposed of the revision, without waiting for survey report of the land in Sy.No.295 to be conducted and localization of the sub-divisions in the said survey number, by merely observing that till the sub-division work is completed respective possession of the claimants to the land is not to be disturbed. Questioning the same, respondents Nos.1 to 3 herein had preferred W.P.No.2616 of 2012. The learned single Judge of this Court was pleased to allow the writ petition by setting aside the orders passed by respondents Nos.4 to 6 herein and remanding the matter back to the 6th respondent-Mandal Revenue Officer, while directing him to issue notice respondents Nos.1 to 3 herein and cause a survey to be conducted through the Assistant Director of Survey and Land Records, Ranga Reddy District, over the lands claimed by respondents Nos.1 to 3 herein as well as the land claimed by the appellants herein. The learned Single Judge further directed the officials to conduct the survey after giving prior notice to both the parties, and directed the 6th respondent herein to decide whether the appellants herein or persons claiming through them are entitled to Form XIII-B certificate under Section 5-A of the Act within a period of six months.

9. The learned Counsel for the appellants contends that a general notice in the village is sufficient before undertaking any exercise of regularization of un-registered sale deed in favour of the appellants and that no individual notices are required to be given to the unofficial respondents herein, and that the learned Single Judge fell in error in directing the Mandal Revenue Officer-6th respondent herein to issue notice to the unofficial respondents Nos.1 to 3 herein and erroneously set aside the orders passed by respondents Nos.4 to 6 herein on the ground that no notices were issued to respondents Nos.1 to 3 herein.

10. The learned Counsel for the appellants has argued on merits of the case and this Court would not feel it proper to adjudicate the case on merits since this Court is of the view that the learned single Judge was right in remitting the matter back to the revenue authorities for passing appropriate orders after giving an opportunity to everyone. If we give any finding on merits of this case, it might affect the parties before the revenue authorities, to whom the matter was remanded for adjudication. Hence, we are not inclined to go into the merits of the case and we are in agreement with the order passed by the learned Single Judge that the issue will be resolved once for all if the case is decided after giving opportunity to all the parties before the revenue authorities.

11. The view taken by the learned Single Judge cannot be found fault. The learned Single Judge has directed only to adjudicate the matter after

giving opportunity to all the persons, who have claimed the said lands. Therefore, this Court is of the view that the order of the learned Single Judge does not suffer from any illegality warranting interference by this Court. Further, no grounds are made out for interference under Clause 15(a) of the Letters Patent.

12. Accordingly, the Writ Appeal is dismissed. No costs. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

(RAMESH RANGANATHAN, ACJ)

(ABHINAND KUMAR SHAVILI, J)

7th December, 2017
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THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Mr. ABHINAND KUMAR SHAVILI

WRIT APPEAL NO.1698 OF 2017

(Judgment delivered by the Hon'ble Mr. Justice Abhinand Kumar Shavili)

7th December, 2017

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