

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

Writ Appeal Nos.1495, 1543, 1546 and 1606 of 2017

Common Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

These four (4) appeals are preferred against the common order passed by the learned Single Judge in W.P. Nos. 24716, 23149, and 26006 of 2003 and W.P. No. 17499 of 2005. The respondents herein (petitioners in the Writ Petitions) had earlier invoked the jurisdiction of this Court, under Article 226 of the Constitution of India, to call for the proceedings of the Joint Collector, Ranga Reddy District passed in exercise of his revisional jurisdiction under Section 9 of the A.P. Rights in Land and Pattadar Pass Books Act, 1971 (for short "the Act"), as arbitrary and illegal.

The facts, as noted in the order under appeal, are that the respondents-writ petitioners owned and possessed different extents of lands in Survey Nos. 166 and 167 of Kokapet Village, Rajendra Nagar Mandal, Ranga Reddy District. Originally, one Sri Abdul Gafoor was the absolute owner, and was in possession, of an extent of Acs.50.18 guntas of land in the subject survey numbers; and his name was noted as the pattedar, and the person in possession of the subject property, in the kasra pahani for the year 1954-55, and in the subsequent years continuously till he sold away the said lands in favour of others. Sri Abdul Gafoor is said to have filed an application under Sections 47 and 48 of the Hyderabad Tenancy and Agricultural Lands Act, 1950 Act (hereinafter referred to as the "Hyderabad Tenancy Act"), and to have obtained permission, vide proceedings dated 20.7.1964, for alienating a part of the land,

admeasuring Acs. 22.17 guntas, in the name of the purchaser Sri Mukundlal Rathi; and his name was mutated in the revenue records. Sri Mukundlal Rathi also filed an application under Sections 47 and 48 of the Hyderabad Tenancy Act seeking permission to alienate the subject land, and obtained permission by proceedings dated 27.3.1966. Sri Mukundlal Rathi executed a sale deed, in favour of the respondent-writ petitioner in W.P. No. 24716 of 2003, vide document dated 15.3.1966, the writ petitioner's name was recorded in the revenue records, and he claims to be in physical possession of the subject land having raised a garden, and having established a poultry farm thereat. The petitioner is said to have shown the subject lands, in addition to other lands, in the declaration filed by him under the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973; and the excess land was surrendered to the Government.

The dispute, in the present Writ Petitions, relate to lands which the petitioners claim is within their ceiling limit, and which they had retained. Notices were issued to the respondents-writ petitioners by the Joint Collector, purporting to exercise suo motu revision under Section 9 of the Act in respect of Acs. 41.32 guntas forming part of Survey No. 166 of Kokapet Village. On objections being filed thereto, the appellant Joint-Collector passed an order directing deletion of the name of Sri Abdul Gafoor, and the petitioner's predecessors-in-title. Aggrieved thereby, the respondents-writ petitioners invoked the jurisdiction of this Court under Article 226 of the Constitution of India.

In the order under appeal, the learned Single Judge observed that the entries in the revenue records were earlier in favour of Sri

Abdul Gafoor, and the names of the respondents-writ petitioners' predecessor-in-title had been recorded therein till they sold the land in favour of the respondents-writ petitioners; the sale in favour of the respondents-writ petitioners was made after obtaining permission under Sections 47 and 48 of the Hyderabad Tenancy Act; the names of the respondents-writ petitioners were entered in the revenue records, and pattadar passbooks were issued in their favour; one of the petitioners had filed declaration under the A.P. Land Reforms Act which was accepted vide proceedings dated 7.2.1978, resulting in the respondents-writ petitioners surrendering their excess lands; the sales, effected in favour of the respondents-writ petitioners and their predecessors-in-title, were through registered sale deeds; and the declarations filed under the A.P. Land Reforms Act, were accepted by the Revenue Authorities.

The learned Single Judge further observed that, having accepted such declarations, the appellants were estopped from initiating suo motu proceedings under Section 9 of the Act, that too after a long lapse of 48 years, seeking alteration of the revenue records, and in the pahanies for the year 1954-55. The learned Single Judge relied on the judgment of the Supreme Court in **Joint Collector, R.R. District vs. D. Narsing Rao**¹ and **Ibrahimpatnam Taluk Vyavasaya Cooli Sangam vs. K. Suresh Reddy**², and observed that the 1st appellant was not entitled to initiate proceedings under Section 9 of the Act after a long lapse of 48 years. The learned Single Judge rejected the request of the learned Government Pleader for grant of liberty to initiate proceedings afresh, holding that the declaration under the A.P. Land Reforms

¹ (2015) 3 SCC 695

² (2003) 7 SCC 667

Act had attained finality; grant of such permission would amount to reopening the ceiling proceedings which had attained finality; and no fraud was pleaded, by laying a factual foundation to that effect. He, accordingly, set aside the order impugned in the writ petitions.

While the learned Special Government Pleader, appearing on behalf of the learned Advocate General, initially put forth his submissions on merits, he later fairly stated that, in the light of the facts as noted by the learned Single Judge, the order under appeal cannot be said to suffer from a patent illegality necessitating interference in an intra-Court appeal under Clause 15 of the Letters Patent. Learned Special Government Pleader would only seek liberty for the appellants to initiate proceedings afresh, in case they secured material to show that the transactions were vitiated by fraud.

In **D. Narsinga Rao¹**, the Supreme Court frowned upon delayed exercise of the revisional jurisdiction, and held that such delayed exercise of revisional jurisdiction would result in avoidable and endless uncertainty in human affairs, which is not the policy of law; even in cases where the order sought to be revised is fraudulent, the exercise of power must be within a reasonable period of discovery of the fraud; and simply describing an act or transaction to be fraudulent would not extend the time for its correction till infinity for, otherwise, exercise of revisional power would itself tantamount to a fraud upon the statute that vests such power in an authority.

It is not even the case of the appellants that any fraud has been detected as on date. Needless to state that since revisional

jurisdiction, as held in **D. Narsinga Rao**¹ is required to be exercised within a reasonable period of discovery of fraud, neither the order under appeal nor the order now passed by us would disable the appellants from initiating action in case material comes to light that the entire transaction is vitiated by fraud.

Subject to the aforesaid observations, all the Writ Appeals fail and are, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(**RAMESH RANGANATHAN, ACJ**)

(**ABHINAND KUMAR SHAVILI, J**)

10th November, 2017

pnb



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



Writ Appeal Nos.1495, 1543, 1546 and 1606 of 2017

Date: 10.11.2017

pnb