

**HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD**

WRIT APPEAL No. 2003 of 2017

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

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in W.V.M.P. No. 3929 of 2017 in W.P. No.28804 of 2017 dated 31.10.2017. The 6th respondent in the Writ Petition is in appeal against the said order. The 1st respondent herein filed the Writ Petition to declare the order passed by the Joint Collector, Nizamabad dated 2.8.2017 as arbitrary and illegal.

By his order dated 2.8.2017, the Joint Collector, Nizamabad held that, as per the guidelines issued by the Government vide GO Ms. No. 1445 dated 5.12.2008, it is only transactions which took place before 31st December, 2000 which could be validated under Section 5-A of the Andhra Pradesh Record of Rights in Land and Pattadar Passbooks Act, 1971 (for short "the Act"); the present transactions had taken place on 12.4.2003 and 19.6.2004 beyond the cut off date; and, hence, validation of an un-registered sale deed was not valid. The order of the Revenue Divisional Officer was set aside.

On the 1st respondent questioning the said order, the learned Single Judge, in his interim order in W.P. No. 28804 of 2017 dated 29.8.2017, noted that the appeal was preferred against the order passed in the year 2008; and the appellant herein had contended that such an order was made without notice to his father, who was the original pattadar. While directing the Joint Collector, Nizamabad not to make any changes in the revenue records, pursuant to the impugned order passed by him, the learned Single Judge directed the 1st

respondent-writ petitioner not to create third party interests or change the physical features of the subject property for a period of six weeks.

This order was made absolute by the learned Single Judge who, in the order under appeal, observed that, in Mohammedan law, a son had no right in the property of the father during the father's lifetime; and since the father of the appellant was alive till 2009, even before regularisation of the sale deed on 16.4.2008, his failure to question the proceedings for regularisation would disable the appellant from challenging the same long afterwards. The interim stay granted earlier was made absolute, and extended until further orders.

Sri Vedula Venkataramana, learned Senior Counsel appearing on behalf of the appellant, would submit that, while the time limit specified for regularisation of unregistered sale deeds has been periodically extended by the Government, the last of which expired by 31.3.2008, regularisation of the subject land was effected thereafter on 16.4.2008; the Revenue Divisional Officer had, therefore, erred in regularizing the agreement of sale, that too after the cut off date; it is the appellant who is in possession of the subject land, and not the 1st respondent-writ petitioner; the learned Single Judge erred in holding that the appellant's father had not questioned the regularization; and as was contended before the learned Single Judge, when the interim order was initially passed, the appellant's father was not even put on notice regarding such regularization.

On the other hand, Sri T. Sujana Kumar, learned counsel for the 1st respondent-writ petitioner, would submit that it is the 1st respondent-writ petitioner who is in possession of the subject land; pattadar passbooks have already been issued in his favour; and the only restriction on the 1st respondent-writ petitioner's right, in terms of the interim order passed by the learned Single Judge, is that he is

disabled from alienating the land or creating any third party interests or to change the physical features of the property; and there is no error in the order under appeal making the earlier interim order dated 29.8.2017 absolute.

As it is the order dated 29.8.2017 which has been made absolute, it is evident that, during the pendency of the Writ Petition, the 1st respondent-writ petitioner cannot create third party rights or change the physical features of the subject property. In effect, the 1st respondent-writ petitioner cannot alienate the subject land or create any other form of third party rights. He is also disabled from changing the nature of these lands which are agricultural lands. The question whether it is the appellant who is in possession of the subject land, or the 1st respondent-writ petitioner, does not even appeared to have canvassed before the learned Single Judge when the order under appeal was passed. It would be wholly inappropriate for us, therefore, to examine these disputed question of fact. We find no error in the order of the learned Single Judge necessitating interference in an *intra-Court* appeal.

The Writ Appeal fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

RAMESH RANGANATHAN, ACJ

GUDISEVA SHYAM PRASAD, J

29th December, 2017

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