

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.17634 OF 2006

ORDER:

This Writ Petition is filed challenging the order passed by the first respondent-Joint Collector, Medak District at Sanga Reddy, in Case No.F3/4714/04-F3/37/ROR/4 dated 09.09.2005 passed under Section 9 of the Andhra Pradesh Rights In Land & Pattedar Passbooks Act, 1971 (for short 'ROR Act').

Petitioner claims to be the owner of the land extent Acs.2.27 guntas in survey No.55/2/C (New No.55/2LU) and Acs.2.00 guntas in survey No.55/2/A (New No.55/2UU) having purchased the same under registered sale deed bearing document No.2470 of 1992 dated 18.08.1992 from Smt.Kamala Bai, who purchased the land extent Acs.2.27 guntas from third respondent-Bogudal Lachmanna under registered sale deed bearing document No.343/1985 dated 19.03.1985 and land extent Acs.2.00 guntas from one Bogudal Ramana (father of the third respondent) under registered sale deed bearing document No.344/1985 dated 19.03.1985. Petitioner's name was incorporated in the revenue records under the provisions of the ROR Act and pattedar passbook and title deed were also issued by the Mandal Revenue Officer, Zaheerabad, in favour of the petitioner. Further, the petitioner obtained permission from the District Collector, Medak, vide proceedings No.D1/5413/2002 dated 10.01.2003 for conversion of the land under Section 61 of the Andhra Pradesh (T.A.) Land Revenue Act, 1317 Fasli and from the date of purchase, the petitioner is in possession and enjoyment of the land. While so, in the first week of August, 2006, when respondents 2 and 3

tried to interfere with his possession, the petitioner on verification, came to know about passing of the impugned order mutating the name of the second respondent in the record of rights for the year 1977-78 in respect of land in survey No.55/2 admeasuring Acs.4-27 guntas and ordering setting aside of the entries in the Faisal Patti and directing an extent of Ac.1.27 guntas in favour of 2nd respondent and extent of Ac.3.00 guntas in favour of the 3rd respondent. The said extents comprise the land belonging to the petitioner. The impugned order was obtained by collusive methods by playing fraud and without issuing any notice to the petitioner as contemplated under the provisions of the Act. Hence, questioning the order passed by the first respondent, the present writ petition came to be filed.

Sri P.Roy Reddy, learned counsel for the petitioner, would contend that the first respondent passed the impugned order without notice to the petitioner though her name was found in the record of rights and the petitioner was not made as a party to the proceedings initiated by the second respondent. He would further contend initiation of proceedings under Section 9 of the ROR Act is wholly without jurisdiction as the provisions of the ROR Act has no application as the entries made in the Faisal Patti (Jamabandi Records) had been made in terms of A.P. (T.A.) Record of Rights Regulation, 1358 Fasli, which was in force at that time, but ROR Act was not in force at relevant time. The ROR Act came into force in phased manner from 1976 onwards. The first respondent ordered correction of entries in the year 1977-78 (the period from 01.07.1977 to 30.06.1978) which was prior to coming into force of the ROR Act and prior to the repeal of the AP (TA) Record of Rights

Regulation, 1358 Fasli. The effect of the order of the first respondent is that entries in the ROR Act stands revised. The first respondent-revisional authority under Section 9 of the ROR Act has power and jurisdiction only in relation to the record of rights prepared under the ROR Act. Section 2 (9) of the ROR Act defines record of rights as 'records prepared and maintained under the provisions, or for the purpose of this Act.' A reading of the same would show that it is only the records prepared under the Act which can be revised under Section 9 of the ROR Act and not the records prepared under the earlier statutory regulations. Hence, the first respondent has no jurisdiction to revise the entries and order for correction of the entries.

None appeared for the second and third respondents.

Learned Assistant Government Pleader appearing for the first respondent while reiterating the contents of the counter affidavit and impugned order made his submissions to sustain the order but he could not sustain his submissions with regard to entertainment of the revision after long lapse of time with inordinate delay and he could not able to satisfy this Court with regard to application of provisions of ROR Act in particular Section 9 of the ROR Act in respect of the entries made under the provisions of AP (TA) Record of Rights Regulations, 1358 Fasli, much prior to coming into force of the ROR Act.

In the facts and circumstances of the case and in considered view of this Court, the main ground on which the petitioner's counsel attacks the impugned order is that the first respondent had no jurisdiction to entertain the revision filed by the second

respondent herein in respect of an entry in Jamabandi for the year 1977-78 made under the provisions of A.P. (T.A.) Record of Rights Regulations, 1358 Fasli. Except merely denying the said ground in the counter, no arguments are forthcoming from the learned Assistant Government Pleader rebutting the said ground. Even from perusal of Section 2 (9) of the ROR Act, it is clear that under ROR Act only the records prepared under the ROR Act can be dealt with and since the impugned order deals with an entry made in Jamabandi for the year 1977-78 under the A.P. (T.A.) Record of Rights Regulation, 1358 Fasli, the provisions of ROR Act are not applicable and the first respondent is not empowered to deal with the same under Section 9 of the ROR Act. Further, no notice is issued to the petitioner before ordering mutation of the names of respondents 2 and 3 *in spite* of the fact that the name of the petitioner finds a place in revenue records, that too after long lapse of time. Hence, viewed from any angle, the impugned order is liable to be set aside.

Accordingly, the Writ Petition is allowed setting aside the order dated 09.09.2005 passed by the first respondent-Joint Collector, Medak District at Sanga Reddy, in Case No.F3/4714/04-F3/37/ROR/4.

Miscellaneous petitions pending in this petition, if any, shall stand closed. There shall be no order as to costs.

(M.GANGA RAO, J)

27th April, 2018
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