

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.5007 OF 2006

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed questioning the proceedings of the second respondent passed in Case No.D5/2509/2004 dated 13.12.2005 as illegal, arbitrary and violative of Articles 14 and 300-A of the Constitution of India.

2. The case of the petitioner is that he purchased the land admeasuring Ac.1.12 guntas situated in Survey No.972 of Medchal Village (hereinafter referred to as 'subject land' for brevity) through an unregistered sale deed on 05-01-1975 from one Sri Panduranga Chary for a valuable consideration and since then he has been in possession and enjoyment of the subject land. Again on 30.12.1996 he also paid additional sale consideration to one Sri G.Vijaya Ranga Chari and his sons and got executed another registered sale deed and thereby he had become absolute owner and possessor of the subject land. Accordingly, his name was mutated in revenue records and he was issued pattedar pass books and title deeds vide patta No.824 and pattadar pass book No.Z298545 by Mandal revenue officer, Medchal Mandal, on 10.05.2000. On 10.02.2003, when he obtained certified copy of the pahani for the year 1999-2000 in respect of the subject land, he came to know that the third respondent, who is his brother, got his name incorporated in the revenue records, without any notice to him. Being aggrieved by the entries in pahanies recording the name of the third respondent, Dandu Sri Ramulu, the petitioner filed a revision before the second respondent under Section 9 of the

Andhra Pradesh Record of rights in Land and Pattadar Pass Books Act (for short 'ROR Act') wherein the second respondent passed an order on 13.12.2005, which is impugned in this writ petition.

3. The second respondent called for the report of the Mandal Revenue Officer and the records, after perusing the records and based on the report of the Mandal Revenue Officer submitted letter, Lr.No.B/3682/2005, dated 13-10-2005, it was found that the land in question belongs to Sri Ranganayaka Swamy Temple and the Temple's name is recorded as pattadar in Khasra Pahani for the year 1954-55, sesala pahani for the year 1955-58 and the same was continued up to the year 1986-87 in respect of the land in survey No.972 of Medchal Village and the name of one Sri Panduranga Chary was found as 'Muthavali'. The names of the private persons i.e., Dandu Sriramulu and Dandu Sathaiah were appearing from the year 1990-91 onwards. The second respondent heard the matter on 16-08-2005 and noticed that the lands are classified as 'temple inam' recorded in the name of Sri Ranganayaka Swamy Temple in the revenue records. He further found that the names of the petitioner and unofficial respondent herein are recorded without any valid proceedings. After enquiry and opportunity to the parties, the second respondent passed the impugned order directing the Mandal Revenue Officer, to restore the entries, incorporate the name of the Temple Sri Ranganayaka Swamy in pattadar column from the year 1986-87, as the names of petitioner and third respondent were wrongly incorporated without any valid orders of competent authority.

4. Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for Revenue (TS) for official respondents. None appeared for the unofficial respondent.

5. The learned counsel for the petitioner would contend that the third respondent's name was incorporated in revenue records, without any notice to him, by removing petitioner's name, illegally. The second respondent while entertaining the revision under Section 9 of the ROR Act, being as a quasi judicial authority, ought not have went beyond the *lis* before him and he has no power to deal with the matters under Inam Abolition Act and directed the Mandal Revenue Officer to record the name of the Temple in the revenue records as he has become *functus officio* in respect of the same. Learned counsel relying on the judgment of this court in ***Noundru Venkata Lakshmi Vijaya Kumari vs. Government of Andhra Pradesh***¹ would submit that the second respondent while dealing with the revision petition under the provisions of the ROR Act, going beyond the provisions of the ROR Act and giving a finding that the land is inam land, is without jurisdiction.

6. Learned Assistant Government Pleader would contend that during the course of exercising powers under Section 9 of the ROR Act, the second respondent called for the report of the Mandal Revenue Officer and the said report revealed that the land in Sy.No.972 of Medchal Village was originally recorded in the name of Sri Ranganayaka Swamy Temple and the names of private persons were mutated without any valid proceedings. The second respondent being the revisional authority, under Section 9 of the

¹ 2017 (1) ALT 11

ROR Act, based on record, after due enquiry and opportunity to the parties, rightly held that the land belongs to the Temple and directed the Mandal Revenue Officer to incorporate the name of the Temple as pattedar as the name of the Temple was illegally removed from the revenue records.

7. Having heard the contentions of the learned counsel appearing on both sides, it is found that the land to an extent of Ac.1.12 gts. in Sy.No.972 of Medchal Village was originally stood in the name of Sri Ranganayaka Swamy temple as recorded in Khasra pahani for the year 1954-55 and seasala pahamni for the year 1955-58 and the same was continued up to the year 1986-87. Thereafter, without any valid proceedings, the names of the private persons i.e., names of the petitioner and third respondent herein were incorporated in the revenue records, illegally by removing the Temple name.

8. The second respondent while dealing with the revision petition, by exercising the power under Section 9 of the ROR Act, called for the report of the Mandal Revenue Officer, after due enquiry and opportunity to the parties, based on the record, passed the impugned order directing the Mandal Revenue Officer to restore the entries by incorporating the names of Sri Ranganayaka Swamy Temple. I find no illegality or irregularity in the impugned order passed by the second respondent. Hence, it could not be said that the impugned order passed by the second respondent is beyond his powers under the provisions of the ROR Act.

9. The further contention of the petitioner's counsel that the second respondent becomes *functus officio* and dealt with the issues under the provisions of the Andhra Pradesh (TA) Inams Abolition Act is untenable. In the decision relied by the learned counsel for the petitioner in **Noundru Venkata Lakshmi Viajaya Kumar**(supra), the issue involved is regarding transfer of land between tribal and non-tribal, dealt with under the provisions of the Andhra Pradesh Scheduled Areas Land Transfer Regulations, 1959. While dealing with the case, it is found that the transfer of the land is hit by the provisions of the Andhra Pradesh Assigned Lands (Prohibition of Transfer) Act, 1977. The Government under revision while upholding the order of the Agent to the Government, held that the Government assumed jurisdiction, which is not vested under Regulation 1 of 1959, and issued further directions to the Agent to take possession of the said land, is without jurisdiction and competence. Once a decision is made under Regulation 1 of 1959, any exercise of revisional jurisdiction would become *functus officio*. In the present case, the second respondent passed the impugned order rectifying the entries made in the revenue records by exercising the revisional power under Section 9 of the ROR Act, for which, the principle of *functus officio* would not apply. The principle of *functus officio* applies only when the authority wants to pass order modifying the earlier order without review powers.

10. This Court repeatedly held that the entries in the revenue records neither create nor take away any right and title to the landed property. It is always open to the parties to agitate their rights before the competent Civil Court. Based on the Civil

Court decree, the parties can approach the Tahasildar concerned to enter the names of the parties and for modification of the entries in the revenue records. If any person is aggrieved as to any right by an entry made in any record of rights, he may institute a suit against any person denying or interested to deny his title for declaration under Chapter VI of the Specific Relief Act, 1963, as held by this Court in ***B.Pushpamma and others v. Joint Collector, R.R. District, Hyderabad and Others***².

11. In view of the same, the writ petition is dismissed with a liberty to the petitioner to approach the Civil Court by filing a properly constituted civil suit claiming title.

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

5th January, 2018
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(M.GANGA RAO, J)

² 2005 (1) ALD 260