

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT PETITION No.21787 of 2008

ORDER:

The petitioners seek writ of Mandamus declaring G.O.Ms.No.181 Social Welfare (LTR) Department dated 12.09.2008 passed by first respondent confirming the order of respondent No.2, dated 30.6.2007 as illegal, arbitrary and consequently direct respondents not to dispossess the petitioners from agricultural land admeasuring Acs. 5.30 guntas in S.No.94/95/A and Acs. 5.28 guntas in S.No.94/95/B of Kermeri village and Adilbad District.

2. The petitioners' case, in brief, is that petitioner No.1 and one Abdul Waheed-husband of petitioner No.2 are the sons of late Hannan and purchased agricultural land admeasuring Acs. 5.30 gts in S. No.94/95/A and Acs. 5.28 gts., in S.No.94/95/B of Kermeri village and Mandal of Adilbad District from its original pattedar one Ershad Hussain prior to 1963 and since then they have been in possession and enjoyment of the said lands cultivating the same and paying land revenue to the Government. The sale took place between two non-tribals in the year 1963 and no interest of the tribals was involved and therefore, the same transaction was not hit by the provisions of Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 amended by Regulation 1 of 1970 (for short 'Regulation 1 of 1959'). The

third respondent in Case No.TW A1/837/90 on a complaint made by some persons resulting in report No.A3/328/89 dated 13.9.1990 dated 13.9.1990 from Mandal Revenue Officer, Kermeri stating that the petitioners were cultivating the patta land situated at Tribal village being non- tribals and in the said report, it is alleged that respondent Nos. 4 and 5 herein were pattadars of the said land. Respondent No.3, without considering the fact that father of petitioner No.1 purchased the lands from the original pattadar, namely, Ershad Hussain prior to 1963, passed an ejection order *vide* proceedings No.TW A1/837/90 dated 31.1.1991. Against the said order, the petitioners preferred an appeal to respondent No.2 *vide* case No.A4/LTR/05/1991, dated 30.6.2007 and respondent No.1 dismissed the said appeal *vide* order dated 30.6.2007 confirming the order passed by respondent No.3. Respondent No.2 unilaterally found the subject land as having been assigned land. Against the orders of respondent No.2, petitioners preferred a revision before the Government and respondent No.1 by G.O.Ms.No.181 Social Welfare (LTR) Department dated 12.9.2008 dismissed the revision by confirming the orders of respondent Nos. 2 and 3. Hence, the writ petition.

3. Respondent No.1 filed counter opposing the writ petition.

4. Heard Sri Y.Ashok Raj, learned counsel for petitioners and learned Government Pleader for Social Welfare.

5. Learned counsel for petitioners strenuously contends that

paying land revenue to the Government and without considering their long standing possession and enjoyment and also not considering that the sale transaction was between two non-tribals and interest of tribals was not involved, all the authorities, at various stages have wrongly held that the petitioners could not establish their title and possession prior to 1963 and ultimately passed ejection order which is not in accordance with the provisions of Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959.

6. Learned Government Pleader opposed writ petition contending that the impugned orders were passed in accordance with the provisions of Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 as amended by Regulation 1 of 1970 contending that petitioners could not establish their title and possession prior to 1963 and therefore, writ petition is liable to be dismissed.

7. I gave anxious consideration to the impugned order in G.O.Ms.No.181 dated 12.9.2008. The order reads that the petitioners claimed the land in Sy.No.94/95/A admeasuring Acs. 5.30 cents and the land in Sy.No.94/95/B admeasuring Acs. 5.28 gts., situated at Kerameri village and Mandal of Adilabad District was purchased by Hannan from one Ershad Hussain prior to 1963 and ever since, they have been in possession and enjoyment of the same and the transaction was between two non-tribals prior to 1963. Therefore, the provisions of Andhra Pradesh Scheduled

Ahmed and Abdul Wahed were found in cultivation column in the pahani of 1970-71 but by virtue of said entry, no right could be accrued to them which is in contravention of LTR Regulations. It was further observed that the contention of petitioners that they purchased the land in dispute through agreement of sale prior to 1963 without any documentary evidence, was not acceptable as per law. On these observations, respondent No.1 rejected the revision by confirming the orders in LTR proceedings passed by respondent Nos. 2 and 3.

8. As can be seen, petitioners claimed that the father of the petitioner No.1 and father-in-law of petitioner No.2, namely, Hannan purchased the subject lands from Ershad Hussain prior to 1963 under unregistered agreement of sale and since then, they have been in continuation possession and enjoyment of the said land by paying land revenue to the Government. If such is the contention, petitioners could have been in a position to file documents showing their possession since 1963, such as, land revenue receipts, cultivation adangals to show that sale transaction was not fabricated one and a genuine one and they have been in possession of the land and the said transaction is not hit by the provisions of Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959, as amended by Regulation 1 of 1970. However, petitioners have not produced any such documents showing their possession since prior to 1963.

9. In these circumstances, respondent No.1 rightly rejected the

As a sequel, miscellaneous petitions pending if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date:12/10/2018

Slk



THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO



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