

HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.16961 OF 2005

ORDER:

The writ petition is filed questioning the order of the 1st respondent-Joint Collector in Case No.D5/8722/1997, dated 12.04.2005 as illegal and arbitrary.

The brief facts of the case, according to the petitioner, so far as they are relevant, for the purpose of disposal of the writ petition, are that originally the land admeasuring Ac.14.20 gts situated in Sy.No.153 of Ravalkol Village, belonged to one D. Narayana Reddy and D. Raghava Reddy; the same was partitioned between them and they each got an extent of Ac.7.10 gts towards their share; the extent of land fallen to the share of D. Narayana Reddy was shown as Sy.No.153/A and the other portion was shown as 153/B in Khasra Pahani; the petitioner's father purchased an extent of Ac.3.26 gts situated in Sy.No.153/A from D. Narayana Reddy through an unregistered sale deed dated 21.5.1956 and he has been in peaceful possession of the said land since the date of purchase; the petitioner made an application to the Mandal Revenue Officer, Medchal Mandal on 1.7.1992 for validation of the said sale deed under Section 5(A) of the Andhra Pradesh Rights in Land & Pattadar Pass Books Act, 1971 (for short, "the Act"); the Mandal Revenue Officer, issued notices to all the persons interested in the said land and also got a notice published for information of the general public; no objections were received and hence the Mandal Revenue Officer Medchal Mandal after following due procedure, passed an order dated 2.11.1993, validating the sale deed; as per the Records of Rights pertaining to 1979-80 and Pahanies, out of the total extent of Ac.7.11 gts in Sy.No.153/A of Ravalkol Village an extent of Ac.3.26 gts belongs to the petitioner and Ac.3.25 gts belongs to the unofficial respondents; the respondents 4 to 7

who are the adjacent land owners, after four long years filed appeal before the 2nd respondent-R.D.O under Section 5-B of the Act challenging the order dated 2.11.1993 of the M.R.O stating that they are the absolute owners and possessors of the land to an extent of Ac.7.00 situated in Sy.No.153/A of Ravalkol Village; they contended that one Yerkala Pochaiah, the father of the unofficial respondents purchased the land of an extent of Ac.6.00 through an unregistered sale deed written in Telugu on 12.5.1956 along with Golla Lachaiah, later on, the said Lachaiah purchased the extent of Ac.1.00 through an unregistered sale deed in the year 1962 from the original owner D. Narayana Reddy and thus the total extent became Ac.7.00; they also produced another sale deed written in Urdu for Ac.14.00; the unofficial respondents also stated that there was a decree in O.S.No.39 of 1963 on the file of the Munsif Magistrate, Hyderabad East, filed by their predecessor seeking correction of revenue records claiming ownership by way of adverse possession, in which there was no reference to the said two contradictory sale deeds.

It is further stated that the R.D.O dismissed the appeal filed by the unofficial respondents herein on 21.10.1997; and against the order of the Revenue Divisional Officer dated 21.10.1997; the unofficial respondents filed a revision before the Joint Collector under Section 9 of the Act and the Joint Collector allowed the revision on 12.4.2005 canceling the pattadar pass books and title deeds obtained by the petitioner, and directed the unofficial respondents to approach the civil court for redressal of their grievance.

Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for Revenue. Though notices were served on the unofficial respondents 4 to 7, none appeared on their behalf.

The writ petition was admitted on 2.8.2008 and an order of status quo was passed on the said date.

The learned counsel for the petitioner contends that the Joint Collector failed to consider the reasoned order passed by both the Revenue Divisional Officer and Mandal Revenue Officer. He further contends that the certified copy of the statement of entries in Pahanies/R.O.R with regard to Sy.No.153/A for the years 1977-78 to 1992-93, clearly establishes the possession of the writ petitioner. He further submits that the father of the unofficial respondents was holding an extent of Ac.3.25 gts and the father of the writ petitioner was holding an extent of Ac.3.26 gts and their names were also mentioned duly indicating the respective holdings of both the parties and for the years 1989-90 to 1991-92, the name of Narayana Reddy alone was reflecting for the entire area of an extent of ac.7.11 gts. Learned counsel for the petitioner also contends that the unofficial respondents have not made any application for regularization of their alleged sale deeds, and that the decree in O.S.No.39 of 1963 on the file of the Munsif Magistrate, Hyderabad East was obtained by playing fraud on the Court. He submits that the suit proceedings appear to have been manipulated with forged signatures of the original pattadar D. Narayana Reddy. The unofficial respondents' predecessors having obtaining the decree in 1963, kept quiet for about 35 years after the suit decree was obtained against a person who sold away the property in the year 1956; the Government of Andhra Pradesh was not made as a party; there is not even a reference to the alleged sale deeds dated 12.5.1956 and 22.5.1956 in the said suit pleadings and on the contrary, it is stated that the plaintiffs therein were in possession of the land since 1949; the said contradictions make the alleged unregistered sale deeds unbelievable; the petitioner's father is also not a party to the said suit and by the date of suit, the property was already sold to his father; the respondents have filed the appeal before the R.D.O, after lapse of four years; the unofficial respondents filed an

application before the M.R.O for mutation of the land on 7.12.1995, by enclosing an unregistered sale deed dated 22.5.1956, written in Telugu; the said sale deed was for Ac.14.00 gts of land; now they claim that there is another sale deed dated 12.5.1956 for Ac.6.00 of land written in Urdu; if really, there was a sale deed dated 12.5.1956 for Ac.6.00, there cannot be any further sale deed on 22.5.1956 for entire extent of land of Ac.14.00; the R.D.O in his order categorically mentioned about the perusal of the entire record of the Mandal Revenue Officer and the writ petitioner also obtained certified copies of the entire record pertaining to the period 2.11.1993 and hence the observations of the Joint Collector was not correct; the Joint Collector while passing the order in the revision relied on the entries made in the Pahanies for the years 1977-78 to 1992-93; even the entry for the year 1991 shows the name of D. Narayana Reddy as pattadar; the Joint Collector having directed the unofficial respondents to seek their grievance redressed by approaching the civil courts, should have dismissed the revision petition. The Joint Collector also relied upon the consent decree which was obtained behind the back of the petitioner's father.

On the other hand, learned Assistant Government Pleader for Revenue, categorically submits that the decree of the civil court has become final and that the petitioner did not challenge the same by way of an appeal. He also relied upon the order of the Joint Collector and contends that the Mandal Revenue Officer through his letter dated 9.12.2004, informed the Joint Collector that as seen from the entries recorded in the personal register of C-Section for the year 1992 file No.C/35/1992 has not been registered; as per the entries in Distribution Register (Inward Register) for the year, 1992, Current No.35 is acknowledged by "B-Section" and the subject is recorded as application of Bhawari Lal Jain GPA of Basheer Sultana, R/o. Secunderabad

surrender of lands at Ravalkole Village. He further submits that reliance cannot be made on the record which has not been registered in the records of Mandal Office.

The order of the Joint Collector shows that the petitioner has obtained the orders of the Mandal Revenue Officer, Medchal, surreptitiously through a fictitious file which has got no entry in the statutory records of the Mandal Office.

Petitioner filed the certified copies of the documents obtained from the Mandal Revenue Office viz. Form-X including the validation certificate. Admittedly the petitioner's father was not a party to the suit filed by the father of the unofficial respondents and the decree in the said suit was also not acted upon. The contention in the said suit is that the father of the unofficial respondents was in possession of the suit land for more than 13 years by the time of filing of the suit. It is nowhere mentioned in the plaint that the plaintiff purchased the suit land. The suit itself is for correction of entries in the records of rights and the decree passed in the said suit was a consent decree.

As the petitioner obtained the certified copies from the office of the Mandal Revenue Officer, and as the letter of the M.R.O dated 9.12.2004 shows that the file No.C/35/1992 has not been registered, the matter is remanded back to the Joint Collector and the Joint Collector, Ranga Reddy District, is directed to make a *de-novo* enquiry into the entire issue and pass a reasoned order in accordance with law, after giving a reasonable opportunity of hearing to both the petitioner and the unofficial respondents. However, as there was an interim order of *status quo* granted by this Court on 2.8.2005 in W.P.M.P.No.21566 of 2005, the same shall be continued till the completion of *de-novo* enquiry and passing of a reasoned order by the Joint Collector.

With the above observations, the writ petition is disposed of. No order as to costs.

Miscellaneous Petitions, if any pending in this writ petition shall also stand closed.

KONGARA VIJAYA LAKSHMI, J

Date:17.07.2018.
Gk



HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.16961 OF 2005

17.07.2018

Gk

