

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Petition No.12391 of 2007

Order:

This Writ Petition is filed questioning the order of the Deputy Collector and Tahsildar, Rajendranagar Mandal, Ranga Reddy District, passed in Case No.D1/587/2004, dated 03.05.2007.

The brief facts of the case are that the petitioners and their family members have purchased the agricultural land admeasuring Ac.18.20 gts., situated in Survey Nos.176, 177 and 178 of Narsingi village, Rajendranagar Mandal, Ranga Reddy District, under a registered sale deed dated 26.02.1983; thereafter they partitioned the property orally and a past partition was recorded in writing and by virtue of which the property was divided by metes and bounds; by virtue of the said partition the third respondent has got 0.04 gts., of land situated in Survey No.176; the third respondent filed an application before the Tahsildar on 08.01.2004; pursuant to the said application, the Tahsildar passed an order on 03.05.2007 which is impugned in the present Writ Petition. The petitioners contend that the application of the third respondent before the Tahsildar is dated 08.01.2004 and the sale deed pursuant to which the third respondent and the petitioners and others purchased the property in question is dated 23.02.1983 and the partition took place on 02.06.1984 and, hence, the third respondent ought to have made application within 90 days from 02.06.1984.

This Court, while admitting the writ petition on 17.09.2007, passed the following interim order.

“*Status quo* with regard to possession and with regard to entries in the revenue records, obtaining as on today shall be maintained.”

Heard learned counsel for the petitioners, learned Assistant Government Pleader for the respondents 1 and 2 and learned counsel for the third respondent.

The main contention of the learned counsel for the petitioners is that in the impugned order the Tahsildar gave findings with regard to possession and that the partition is neither executed nor acted upon and that such findings cannot be given by him, when the 3rd respondent herself never disputed the partition. He further contends that the Tahsildar finally heard the case on 04.03.2006 and the order was passed on 03.05.2007, hence there is a long delay in delivering the judgment and in support of his contention he relies upon the judgments reported in *Bhagwandas Fatechand Daswani v. HPA International*¹, *R.C. Sharma v. Union of India*² and *Anil Rai v. State of Bihar*³.

In *Bhagwandas Fatechand Daswani*'s case (supra), when there is a delay of five years in delivering the judgment the same was deprecated by the Hon'ble Supreme Court on the ground that the delay in delivering the judgment gives rise to an apprehension in the mind of the party that arguments raised at bar have not been reflected or appreciated. Accordingly, the judgment was set aside and the matter was remitted to the High Court for deciding the appeal afresh.

¹ AIR 2000 Supreme Court 775

² AIR 1976 SC 2037

³ AIR 2001 SC 3173

Similarly, in R.C. Sharma's case (supra) when the High Court had given its judgment eight (8) months after it had heard arguments, the Hon'ble Supreme Court observed that an unreasonable delay between hearing of arguments and delivery of a judgment, unless explained by exceptional or extraordinary circumstances, is highly undesirable even when written arguments are submitted. The Hon'ble Supreme Court further observed that justice must not only be done but must manifestly appear to be done.

In Anil Rai's case (supra) also the Hon'ble Supreme Court deprecated the delay in delivery of judgment by the High Court.

As seen from the impugned order, the matter was heard by the Tahsildar on 04.03.2006 and the impugned order was passed on 03.05.2007. Hence, there is an unreasonable delay between hearing of arguments and delivery of the impugned order. Apart from that, the Tahsildar has also given categorical findings in the impugned order with regard to possession and partition which he ought not to have given. Hence, on both the counts, the impugned order is liable to be set aside and the matter is to be remanded to the Tahsildar for fresh disposal.

Accordingly, the Writ Petition is allowed and the impugned order is set aside. The matter is remanded to the Tahsildar, Rajendranagar Mandal, Ranga Reddy District, for passing fresh orders in accordance with law after giving reasonable opportunity of hearing to the petitioners, third respondent and all the other interested parties in the subject matter. Since the matter pertains to the year 2007, the Tahsildar is directed to pass orders as expeditiously as possible. Till such orders are passed by the Tahsildar, *status quo* with regard to possession and with regard to

entries in the revenue records shall be maintained. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

KONGARA VIJAYA LAKSHMI, J.

Date: 23.07.2018
Nsr

