IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

* * * *

WRIT PETITION No.691 of 2007

Between:

Saleema Begum

....Petitioner

And

The Joint Collector, Ranga Reddy District at Lakdikapool, Hyderabad and others

....Respondents

JUDGMENT PRONOUNCED ON: 24.04.2018

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? : Yes

2. Whether the copies of judgment may be Marked to Law Reporters/Journals? : Yes

3. Whether His Lordship wishes to see the fair copy of the Judgment? : No

T.AMARNATH GOUD, J

*** THE HON'BLE SRI T.AMARNATH GOUD**

<u>+ WRIT PETITION NO.691 OF 2007</u>

% DATED 24TH APRIL, 2018

Saleema Begum

.. Petitioner

Vs.

$ The Joint Collector, Ranga Reddy District at Lakdikapool, Hyderabad and others

.. Respondents

<Gist:

>Head Note:

! Counsel for the Appellants : Sri B.Vijayasen Reddy

^Counsel for the Respondents : Government Pleader for Revenue

? CASES REFERRED:

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

W.P.NO.691 OF 2007

ORDER:

The petitioner filed this writ petition challenging the order passed by the second respondent/Revenue Divisional Officer, Chevella Revenue Division, Ranga Reddy District in proceedings No.C/4/155/98, dated 01-07-2003, which is confirmed by the first respondent/Joint Collector, Ranga Reddy District in Case No.D5/4736/2004, dated 13-02-2006 as illegal and arbitrary.

2. The case of the petitioner is that he purchased the land in an extent of Ac.4.37 guntas in Sy.No.343/7, situated at Bandavelikicharla Village, Kulkacherla Mandal, Ranga Reddy District, under a registered sale deed vide document No.689/1986, dated 19-06-1986 from the 5th respondent Kosigi Chennaiah. Originally, the petitioner purchased land in an extent of Ac.9.34 guntas in Sy.No.343/7 from the 5th respondent under an unregistered sale deed dated 20-04-1975. Later, a dispute arose between the petitioner and 5th respondent and the matter has settled. In pursuance of which, the sale deed dated 19-06-1986 came into existence and the said sale deed is the validation of earlier unregistered sale dated 20-04-1975, which attained the legality by way of validation. Since then, the petitioner is in possession of the said land and doing cultivation. The name of the petitioner has been entered into the revenue records by way of mutation by proceedings No.ROR 130/1989.

3. While the matter stood thus, the 4th respondent made a representation to the 3rd respondent for rectification of wrong

entries in revenue records in respect of the land in Sy.No.434, admeasuring Ac.9.34 guntas, the subject land herein. On the said representation, the 3rd respondent caused an enquiry on 10-10-1998 and opined that the subject land belongs to Government land, which was originally assigned to Smt.Sampalle Yellamma W/o Chennaiah prior to 1954. In pursuance of the of the enquiry report submitted by the 3rd respondent, a suo-motu appeal has been taken up by the second respondent in Case No.C/4155/1998 and an order has been passed on 1-7-2003, setting aside the earlier proceedings No.ROR/130/89 - ROR/144/91 of the 3rd respondent and directed to restore the original entries in the revenue records and grant succession in favour of the 4th respondent, who claimed to be the sole legal heir of the original assignee. Aggrieved thereby the petitioner preferred a revision under Section 9 of A.P. Rights in Land and Pattadar Pass Books Act, 1971. The first respondent heard the matter and passed orders in Case No.D5/4736/2004 by dismissing the revision on 13-2-2006 against the petitioner herein.

4. On verification of this Court's proceedings sheet, it is found that on 20-04-2018, notices issued to respondents 1 to 3 were served, but notices sent to respondents 4 and 5 were returned un-served as unclaimed and therefore, notices issued to respondents 4 and 5 are deemed to have been served. On 23-04-2018, the names of respondents 4 and 5 are printed in the cause list and when the case is taken up, the names of respondents 4 and 5 are called, but there is no representation on their behalf. In view of the writ petition being old matter pertains to 2007, the case has been taken up for hearing,.

5. Heard the learned counsel appearing for the petitioner and the learned Government Pleader for Revenue.

6. As seen from the impugned orders, originally, the land was assigned in favour of Smt.Sampalle Yellamma W/o Chennaiah prior to 1954-55. By virtue of the title in favour of the original assignee, the petitioner purchased the assigned lands by way of unregistered sale deed dated 20-04-1975 in an extent of Ac.9.34 guntas. Later, a dispute arose and the villagers settled the matter and an extent of Ac.4.35 guntas was sought to be alienated and with the mutual consent, sale deed was validated on 19-06-1986. Later, the petitioner is in peaceful possession and enjoyment of the said land and doing cultivation. The name of the petitioner has been mutated in the revenue records, which is evident from the Adangal of 1999-2000 and pattadar pass book No.600 was also issued in her favour by the third respondent.

7. The 4th respondent filed a representation before the 3rd respondent, seeking to rectify the entries in the revenue records and in pursuance thereof, the 3rd respondent has caused an enquiry and submitted a report dated 10-10-1998 and declared that the subject lands are Government lands assigned in favour of Sampalle Yellamma prior to1954 and she died leaving her legal heirs and the 4th respondent happens to be the grand son (daughter's son) of the original assignee. Basing on the report of the 3rd respondent, the second respondent has taken up the matter on record as suo-motu appeal under Rule 13(2) of A.P. Rights in Land & Pattadar Pass Books Rules 1989, read with Section 5(5) of A.P. Rights in Land & Pattadar Pass Book Act, 1971 and issued

notices. The second respondent in the appeal which is taken up after an inordinate delay of 10 years, though the limitation is prescribed under the Act as 60 days, has dealt with the issue regarding the legal heirs and title and further, he dealt with the issue of Section 3 of A.P. Assigned (Prohibition of Transfer) Lands Act,1977, stating that the assigned lands are prohibited from alienation and in the light of Section 3 of the Act, the alienation of subject land in favour of the petitioner is null and void and such transaction has no weightage. This finding of the second respondent cannot be appreciated as the second respondent has no jurisdiction to decide the title and legal heirs of the deceased as the competent Court of law has to decide the title and declaration of lawful possession. Since the subject lands were purchased prior to 1954, the provisions of A.P. Assigned (Prohibition of Transfer) Lands Act, 1977 do not apply to the lands which were assigned subsequent to 1958. Prohibition clause has been incorporated subsequent to the assignment pattas issued from 1958 onwards and prior to 1954, there was no restriction for alienation of the lands by the assignees.

8. The suo-motu appeal with inordinate delay has not been explained by the second respondent and when the matter pertains to the issue of correction of entries in the revenue records under A.P. Rights in Land and Pattadar Pass Books Act, 1971, the second respondent has exceeded the scope of his jurisdiction under the Act as the declaration, title and possession are not within the purview of the revenue authorities, but it lies with the competent civil Court.

9. The order of the second respondent does not disclose that the third respondent before coming to the conclusion, in the name of enquiry, has neither issued notice to the parties nor heard them and no enquiry was conducted. There is no evidence placed or relied upon by the respondent officials to say that the title is with the 4th respondent who is the legal heir of the original assignee and there are no valid proceedings issued in favour of the 4th respondent declaring him as successor and legal heir of the original assignee. The 4th respondent also has to establish his locus before the competent Court of law.

10. In the revision preferred by the petitioner against the order of the third respondent dated 01-07-2003, the first respondent/Joint Collector in his order dated 13-02-2006 has confirmed the order of the second respondent, holding it as valid and dismissed the appeal. It is evident from the order of the first respondent that even the first respondent has not appreciated the issue of title, delay and the manner in which the authority has conducted the enquiry and submitted the report and the statutory delay in taking up the suo-motu appeal, the issues are left unattended. It is a clear case of the respondents dealing with the matter without application of mind and contrary to law. Hence the order passed by the second respondent, which is confirmed by the first respondent are liable to be set aside and accordingly, the same are set aside.

8. For the reasons stated above, the writ petition is accordingly allowed, setting aside the order of the 1st respondent/Joint Collector, Ranga Reddy, dated 13-02-2006, confirming the order of

the 2nd respondent/Revenue Divisional Officer, Chevella Revenue Division, Ranga Reddy District dated 01-07-2003. No order as to costs. As sequel, the miscellaneous petitions pending if any shall stand closed.

T.AMARNATH GOUD,J

Date:24-04-2018
Note:-
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B/o
Shr