

THE HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

Writ Petition No.22917 of 2006

ORDER:

This Writ Petition is filed to declare the Memo No.D5/4558/2006, dated 15.09.2006 issued by the District Collector-first respondent, as illegal and arbitrary.

2. Brief facts of the case, according to the petitioners are, that they are absolute owners and possessors of the land admeasuring Acs.4.03 gts., situated in Sy.No.270 of Kiasaram Village, Shameerpet Mandal, Ranga Reddy District; originally one Cheeraboina Laxmamma and the fifth petitioner herein, were the joint owners and possessors of the said property; when one Bhavani interfered with the said property of the petitioners, the fifth respondent and Cheeraboina Laxmamma filed OS No.86 of 1986 on the file of the Court of the Principal Subordinate Judge, Ranga Reddy District, which was subsequently transferred to the Court of the Principal Senior Civil Judge, Ranga Reddy District; the said suit was decreed on 22.07.1991 declaring the plaintiffs therein as the owners of the suit schedule property and the defendants therein are directed to deliver the vacant possession of the suit schedule land to the plaintiffs therein and the said judgment has become final; execution petition was filed and the Executing court delivered possession of the land to the plaintiffs on 19.03.1992 under the cover of *panchanama*; the petitioners 1 to 4 are the successors of the said Cheeraboina Laxmamma; the petitioners filed a petition under Sections 3 and 4 of the A.P. Rights in Land and Pattadar Pass Books Act, 1971, in August, 2006 before the District Collector seeking direction to the second respondent to mutate the

names of the petitioners in respect of the said property; in response to the same, the District Collector/District Revenue Officer issued a Memo, dated 15.09.2006 wherein it was informed that the petitioners have not submitted any documentary evidence in token of their fulfillment of those conditions and that the Court decree of 1991 cannot be implemented now at this point of time.

3. Heard Sri P. Venugopal, learned senior counsel for the petitioners and the learned Assistant Government Pleader for Revenue.

4. Sri P Venugopal, learned senior counsel for the petitioners contends that the said Memo of the District Collector is illegal and liable to be set aside; merely because the application is filed by them belatedly, their rights to the said property will not be extinguished; the petitioners cannot be denied the opportunity to consider their case, as the impugned order shows that their application was rejected in *limine*; the said memo issued by the District Collector says that the decree of the Court cannot be implemented and that according to Section 4 of the A.P. Rights in Land and Pattadar Passbooks Act said Act (for short 'the Act'), the District Collector cannot say that the decree cannot be implemented; even though the period of 90 days is stipulated under Section 4 of the said Act, the District Collector, by exercising *suo motu* power, can look into the issue at any point of time and pass appropriate orders, thereon.

5. Learned Assistant Government Pleader submits that the application under Section 4 has to be made before the Mandal Revenue Officer and instead of making an application before the Mandal Revenue Officer, the petitioners directly made an application to the District Collector. He further submits that the decree was obtained in the year

1991 and there is a delay of 21 years in filing the said application and as the Section 4 stipulates that the application shall be made within a period of 90 days, the District Collector rightly rejected the request of the petitioners.

6. Learned Assistant Government Pleader further submits that the petitioners have to make a fresh application to the Mandal Revenue Officer and if any such application is made, the Mandal Revenue Officer will re-do the exercise in the matter in accordance with law after following the procedure and after giving wide publicity.

7. Section 4 of the Act deals with intimation with regard to acquisition of rights. Section 4 was substituted by Amendment Act 4 of 1994 which came into effect from 31.03.1993. The object of the Amendment Act 9 of 1994 is to safeguard the interest of the agriculturists and to overcome the difficulties experienced by the credit lending agencies, the Government decided to amend the Act to achieve many objects. One of the objects of the Amendment Act 9 of 1994 is to issue title deeds to the pattadars, owners to enable them to use the same for correction of equitable mortgage on their lands. According to the said Section 4 any person acquiring the right by succession, survivorship, inheritance, partition, Government patta, decree of a court or otherwise any right as owner, Pattadar, mortgagee, occupant or tenant of a land and any person acquiring any right as occupant of a land by any other method shall intimate in writing his acquisition of such right, to the Mandal Revenue Officer within 30 days from the date of such acquisition and the said Mandal Revenue Officer shall give or send a written acknowledgment of the receipt of such intimation to the person making it.

The said period of 30 days was substituted for 90 days by Act 10 of 2016 with effect from 01.07.2016.

8. As seen from the decree in the said suit there are no conditions whatsoever which have to be fulfilled by the petitioners herein. Secondly the reasoning of the District Collector is presumably on the ground that under Section 4 of the Act a person who is acquiring the right to the property by a decree of the Court as a owner shall intimate in writing of his acquisition of such right within a period of 90 days from the date of such acquisition. At the time of filing of the application by the petitioners prescribed time limit was 90 days. As the petition filed by the petitioners is beyond the period of 90 days the District Collector rejected the same. The entries in the revenue records do not confer any title, but not recording the right which the petitioners acquired in the records under the said Act will put them in a disadvantageous position. In the peculiar facts and circumstances of this case, even though the petitioners acquired the right to the said property by virtue of a decree, their names were not mutated in the record of rights maintained under the said Act, because the application is made by the petitioners beyond the period of 90 days.

9. Section 10 of the Telangana Rights in Land and Pattadar Passbooks Act deals with power of the recording authority. Sub-section (2) of the said Section 10 read as follows:

“The provisions of Section 5 and Sections 12 to 24 of the Limitation Act, 1963 (Central Act 35 of 1963) shall apply for the purpose of extension and computation of the periods prescribed in Section 3(3), 4(1), 5(5), 5A and 5B of this Act.”

10. Hence, the Authority has got power to condone the delay if there is a delay in filing an application seeking mutation.

11. In the instant case the petitioners filed the application before the District Collector seeking mutation of their names. As per Section 4 of the Act, the application has to be made to the Mandal Revenue Officer. Hence, the impugned order passed by the District Collector is liable to be set aside.

12. Accordingly, the Writ Petition is allowed and the order passed by the District Collector is set aside. The petitioners are given liberty to file fresh application before the Tahsildar and on filing such application the Tahsildar shall consider the case of the petitioners afresh in accordance with Section 4 of the Act and the Rules made thereunder and pass appropriate orders in accordance with law. 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: 30th August 2018
Nsr/bss

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

Writ Petition No.22917 of 2006



Date: 30.08.2018

Nsr/bss