

HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT APPEAL No.2017 OF 2017

JUDGMENT: (per Hon'ble the Acting Chief Justice Ramesh Ranganathan)

Heard Sri Sita Ram Chaparla, Learned Counsel for the appellant-writ petitioner, Learned Government Pleader for Revenue appearing on behalf of respondents 1 and 2 and Sri T. Venkata Reddy, Learned Counsel for respondents 3 to 5. This appeal is preferred against the order passed by the Learned Single Judge in W.P. No.33997 of 2014 dated 19.12.2017. The petitioner invoked the jurisdiction of the Joint Collector, Ranga Reddy dated 20.06.2014 with respect to the land in Sy. No.374 admeasuring Ac.1.17 guntas at Turkayamzal village, Hayathnagar Mandal, Ranga Reddy District.

Facts, to the limited extent necessary, are that the appellant-writ petitioner claims to be the owner of Ac.1.17 guntas of land in Sy. No.374 on the basis of a registered sale deed dated 21.05.1965. It is his case that his name is reflected in the pahanies till the year 1994-95, and the names of respondents 3 to 5 were surreptitiously entered in the revenue records from the year 1995 onwards. The appellant approached the Mandal Revenue Officer seeking information regarding the basis on which the names of respondents 3 to 5 were entered, as pattadars of the land in Sy. No.374, in the pahanies from the year 1995 onwards. On the Mandal Revenue Officer informing him that the records were not available, he filed a revision before the Joint Collector under Section 9 of the A.P. Rights in Land and Pattadars Pass Book Act, 1971. Respondents 3 to 5 filed a counter-affidavit, before the Revisional authority, questioning the maintainability of the revision. They claimed ownership, of the subject land in Survey No.374, on the

basis of a subsequent compromise entered into in A.S. No.32 of 1982 dated 27.08.1987. In the counter-affidavit filed before the Joint Collector, respondents 3 to 5 claimed title, over an extent of Ac.1.17 guntas of land in Sy. No.374, based on the aforesaid compromise.

The Joint Collector, however, rejected the respondents' objection to the maintainability of the revision, and examined the appellant-writ petitioner's claim on merits. The Joint Collector rejected the appellant-writ petitioner's claim of ownership of an extent of Ac.1.17 guntas of land in Sy. No.374 holding that the registered sale deed of the year 1965 stood superseded by the compromise entered into in A.S.No.32 of 1982 on 27.08.1987. Aggrieved thereby, the appellant-writ petitioner invoked the jurisdiction of this Court. In the order under appeal, the Learned Single Judge held that, once the appellant-writ petitioner is held not to be the owner of the subject land in Sy. No.374, it was not open to him to question the title of respondents 3 to 5 over the subject land. Aggrieved thereby the present appeal.

Sri Sita Ram Chaparla, Learned Counsel for the appellant, would submit that, having rejected the respondents' contention that a revision was not maintainable, the Joint Collector was obligated to consider the appellant-writ petitioner's contention that respondents 3 to 5 were not owners of the land in Sy. No.374; it is they (appellant-writ petitioner) who were the owners; while the Joint Collector rejected the appellant-writ petitioner's claim of ownership, of the subject land in Sy. No.374, holding that the sale deed executed in 1965 stood superseded by the subsequent compromise, the compromise decree passed on 27.08.1987 does not reflect title, over the subject land in Sy. No.374, having been passed on to respondents 3 to 5; the compromise decree records that

the land in Sy. No.374 belongs to the appellant in A.S.No.32 of 1982; even in the counter, filed by them before the revisional authority, respondents 3 to 5 based their claim of title, over the subject lands in Sy. No.374, on the basis of the compromise decree; it is for the first time, in the counter-affidavit filed in the Writ Petition, that they set up a new case of having purchased the subject land in Sy. No.374 from the appellant in the year 1995; in proceedings under Article 226 of the Constitution of India, the Learned Single Judge ought not to have examined the claim of respondents 3 to 5 of ownership of the subject land in Sy. No.374; the matter ought to have been relegated to the Joint Collector to pass an order afresh under Section 9 of the Act; and, as a result of the order of the Learned Single Judge, the Appellant-Writ Petitioner is now been denied his right to contest the respondents claim, of ownership of the subject land in Sy. No.374, before the competent Civil Court.

On the other hand Sri T. Venkata Reddy, Learned Counsel for respondents 3 to 5, would submit that, once the revisional authority had held that the appellant was not the owner of the subject land in Sy. No.374, on the ground that the sale deed executed in his favour in 1965 stood superseded by the subsequent compromise, it was unnecessary for the revisional authority to proceed further and examine the title of respondents 3 to 5 over the subject property; it is not as if the appellant, who was declared as the owner of the subject land in Sy. No.374 by the compromise decree, had invoked the jurisdiction of the Joint Collector under Section 9 of the Act; respondents 3 to 5 had purchased Ac.1.17 guntas of land in Sy. No.374 from the appellant in A.S. No.32 of 1982, after the compromise decree was passed; and the

Learned Single Judge was justified in declaring that the appellant-writ petitioner had no title whatsoever over the lands in Sy. No.374.

As noted hereinabove, the jurisdiction of the Joint Collector, under Section 9 of the Act, was invoked by the appellant herein aggrieved by the failure of the Tahsildar in furnishing information regarding the basis on which the name of respondents 3 to 5 was entered as the pattadar, of the subject lands in Sy. No.374, in the pahanis from the year 1995 onwards. Despite the contention of respondents 3 to 5, that a revision was not maintainable, the Joint Collector entertained the revision, and proceeded to decide the matter on merits. In the counter-affidavit filed by them before the Joint Collector, respondents 3 to 5 based their claim of title, over the subject lands in Sy. No.374, on the compromise decree. No reference has, admittedly, been made in the said counter-affidavit of respondents 3 to 5 having purchased the subject land, from the appellant in A.S.No.32 of 1982, subsequent to the compromise decree; while holding that the appellant had no claim or title over the subject lands in Sy. No.374, as the sale deed executed in their favour in 1965 stood superseded by the compromise decree passed subsequently, the Joint Collector did not deal with the appellant'-writ petitioner's contention that respondents 3 to 5 had no title over the subject land in Sy. No.374 since, in the compromise decree, these lands were shown as falling to the share of the appellant in A.S. No.32 of 1982.

While Sri T. Venkata Reddy, Learned Counsel for respondents 3 to 5, would contend that it is unnecessary for the Joint Collector to examine this contention, once he held that the appellant-writ petitioner had no claim of title over the subject land in Sy. No.374, the appellant's

revision was not rejected even on this ground. As it is now evident that the respondents' claim of title over Sy. No.374 is not on the basis of the compromise decree, but on a sale deed having been subsequently executed in their favour by the appellant in A.S.No.32 of 1982, and in as much as this fact was not brought to the notice of the revisional authority in their counter-affidavit filed by them before the revisional authority, the Joint Collector (revisional authority) ought to have considered these aspects.

In a Writ Petition, filed questioning the validity of the order of the Joint Collector, this Court would not undertake an examination of disputed questions of title for these are all matters extraneous to the writ proceedings. The only question which necessitated examination was whether the Joint Collector had, while exercising his powers of revision under Section 9 of the Act, failed to consider the contentions raised before him by the appellant and respondents 3 to 5. It is evident, from the order of the revisional authority, that these contentions were not addressed. On this short ground, the order of the revisional authority is liable to be, and is accordingly, set aside. The revisional authority shall, after putting the appellant and respondents 3 to 5 on notice and after giving them an opportunity of being heard, pass orders afresh in accordance with law. It is open to the parties to file additional pleadings, if they so choose, before the revisional authority; and, on such contentions being raised, the revisional authority shall consider the same and pass a reasoned order in accordance with law. The entire exercise, culminating in a fresh order being passed by the revisional authority, shall be completed with utmost expedition and, in any event, not later than four months from the date of receipt of a copy of this order.

The Writ Appeal is disposed of accordingly. The miscellaneous petitions pending, if any, shall stand closed. No costs.

RAMESH RANGANATHAN, ACJ

GUDISEVA SHYAM PRASAD, J

Date: 02.01.2018

MRKR

