HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

WRIT APPEAL No.317 of 2019

Date: 29.07.2019

Between:

Mandala Sadanandam Goud
and another.

... Appellants

And

The State of Telangana,
Rep. by its Principal Secretary,
Revenue Department,
Secretariat, Hyderabad
and others.

...Respondents

Counsel for the Appellants : Sri V.V.Raghavan

Counsel for Respondent Nos.1 & 2 : Government Pleader for Revenue

Counsel for Respondent Nos.3 to 5 : Sri B. Vijaysen Reddy

The Court made the following:

JUDGMENT: (Per Hon'ble Dr. Justice Shameem Akther)

This appeal, under Clause 15 of Letters Patent, is filed aggrieved by the order dated 20.03.2019 passed by a learned single Judge of this Court in Writ Petition No.33171 of 2018, wherein the learned single Judge was pleased to dismiss the writ petition declining to amend the entries made in the year 1984.

2. Heard arguments of Sri V.V.Raghavan, learned counsel for the appellants; learned Government Pleader for Revenue for respondent Nos.1 and 2 and Sri B.Vijaysen Reddy, learned counsel for respondent Nos.3 to 5 and perused the record.

3. In brief, the facts of the case are that, the appellants/writ petitioners filed a petition in the year 2005 before the Tahsildar, Quthbullapur Mandal, Ranga Reddy District, to rectify the entries made in the year 1984 and the learned Tahsildar having considered the subject matter, was pleased to dismiss the petition vide proceedings No.A/17940/2005 dated 31.03.2009. Aggrieved by the same, the writ petitioners preferred appeal under Section 5(5) of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short "ROR Act, 1971") before the Special Grade Deputy Collector and Revenue Divisional Officer, Malkajgiri Division, Ranga Reddy District. The learned Revenue Divisional Officer, allowed the appeal filed by the writ petitioners vide Proceedings No.A2/885/2011 dated 30.01.2015. Aggrieved by the same, the respondents 3, 4 and 5 herein filed revision petition under Section 9 of the ROR Act, 1971 before the Joint Collector, Medchal-Malkajgiri District and the learned Joint Collector was pleased to allow the revision vide Proceedings No.D5/3896/2015

dated 28.02.2018 by setting aside the order dated 30.01.2015 passed by the learned Revenue Divisional Officer. Challenging the same, the writ petitioners filed the impugned Writ Petition No.33171 of 2018 and the said writ petition was dismissed by a learned single Judge of this Court vide order dated 20.03.2019. Hence the present writ appeal by appellants/writ petitioners.

4. Learned counsel for the appellants/writ petitioners contended that the order passed by the learned Joint Collector dated 28.02.2018 and the impugned order dated 20.03.2019 passed in the Writ Petition No.33171 of 2018 by the learned single Judge are erroneous and contrary to law and facts of the case. No separate application was required to be filed to condone the delay caused in filing the application before the Tahsildar. The entries in the year 1984 were made behind the back of the appellants/writ petitioners and without their notice. Having come to know the same, they immediately filed an application before the Tahsildar and ultimately prayed to set aside the impugned order dated 20.03.2019 passed by the learned single Judge and restore the order of the Revenue Divisional Officer dated 30.01.2015.

5. On the other hand, learned counsel for the respondent Nos.3 to 5 contended that the learned Joint Collector as well as the Tahsildar are justified in passing the orders dated 28.02.2018 and 31.03.2009 respectively. No application to condone the delay was filed. Moreover, no justifiable cause to condone the delay was agitated under Section 5 of the Limitation Act, 1963. There are complex questions of facts and law. Therefore, the learned Joint Collector as well as the learned single Judge justified in passing

the orders dated 28.02.2018 and 20.03.2019 respectively and ultimately prayed to dismiss the writ appeal.

6. In view of submissions made by both sides, the point that arises for determination is:

> ***"Whether the impugned order dated 20.03.2019 passed in Writ Petition No.33171 of 2018 by the learned single Judge is liable to be set aside?"***

7. **POINT**: Admittedly, the mutation entries were made in the revenue records long back in the year 1984. Under Section 3(3) of the ROR Act, 1971, an application for rectification of entries is required to be filed within one year from the date of notification referred to in Section 3(2) of the ROR Act, before the concerned officer. After expiry of this period, the power of rectification vesting in the designated authority ceases to exist. Therefore, the remedy available for the appellants/writ petitioners was to prefer an appeal under Section 5(5) of the ROR Act, 1971. However, such appeal is required to be filed within 60 days from the date of communication of the order of the recording authority making an amendment in the record of rights. But the appellants/writ petitioners filed a petition in the year 2005 before the Tahsildar, Quthbullapur Mandal, Ranga Reddy District, seeking to rectify the entries made in the year 1984 and the learned Tahsildar was pleased to dismiss the petition vide proceedings No.A/17940/2005 dated 31.03.2009 on the ground that he had no jurisdiction to entertain the petition under the provisions of ROR Act. Aggrieved by the same, the appellants/writ petitioners filed an appeal before the Revenue Divisional Officer under Section 5(5) of the ROR Act, 1971. No

explanation was given by the appellants for the delay caused. The learned Revenue Divisional Officer without going into the cause for the delay and without appreciating the facts of the case on hand, erroneously directed to change the entries in the revenue records vide Proceedings No.A2/885/2011 dated 30.01.2015. Having noticed the same, the learned Joint Collector was justified in setting aside the order passed by the learned Revenue Divisional Officer vide Proceedings No.D5/3896/2015 dated 28.02.2018. Throughout, the appellants have not complied the requirements under Section 5 of the Limitation Act, 1963, to condone the delay either by filing separate application or agitating in the grounds of the petition as well as in the appeal. When the impugned Writ Petition was filed, the learned single Judge had elaborately considered the subject issues and held that the rectification of entries sought in the year 2005 was misconceived and not at all maintainable before the Tahsildar. It is also evident from the record, complex factual aspects are required to be determined to ascertain the title and possession of the disputed land. This can be addressed before the competent Civil Court. Similar view was taken by the learned Joint Collector. The appellants/writ petitioners did not assign any justifiable cause in the application before the Tahsildar as well as in the appeal before the Revenue Divisional Officer under Section 5(5) of the ROR Act. Without considering these factual aspects, the learned Revenue Divisional Officer erred in determining the *lis*. On the ground of delay and laches also, the case of the appellants is liable to be dismissed.

8. Under these circumstances, this Court does not find any merit in the present writ appeal and the same is, hereby, dismissed. No order as to costs.

Pending miscellaneous petitions, if any, shall also stand dismissed.

RAGHVENDRA SINGH CHAUHAN, HCJ

Dr. SHAMEEM AKTHER, J

Date: 29.07.2019
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