

THE HON'BLE ACTING CHIEF JUSTICE
SRI RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

WRIT APPEAL Nos.443, 448 and 458 of 2019

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

Since these three writ appeals are interrelated and arise out of a common order, they are being taken up together and disposed of by way of this common judgment.

2. These appeals, under Clause 15 of Letter Patents Act, are filed aggrieved by the common order dated 02.04.2019 passed by a learned Single Judge of this Court in W.P.Nos.4279, 4292 and 4301 of 2019.

3. The appellants herein in these three appeals are respondents 5 and 6 in the writ petitions and respondent No.1 herein is the petitioner in the writ petitions and respondents 2 to 5 herein are respondents 1 to 4 in the writ petitions.

4. The facts in brief, leading to filing of these appeals, are that the respondent No.1 herein/writ petitioner is the owner and possessor of agricultural land admeasuring Ac.6.20 guntas in Sy.No.110 and Ac.11.05 guntas in Sy.No.101 of Nasturpally Village, having inherited the same from his father Panakanti Narayan Rao, who effected a partition amongst himself and his progeny during his lifetime. Thereupon, an extent of Acs.28.38 guntas situated in various survey numbers of Nasturpally Village fell to the share of respondent No.1 herein/writ petitioner,

including the above extents in Sy.Nos.101 and 110. In terms of the partition, the respondent No.1 herein filed a declaration under Section 8 of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, which was duly approved in C.C.No.M/245/1975, vide order dated 27.05.1976. According to the respondent No.1 herein/writ petitioner, his father and his brother-respondent No.5/appellant No.1 herein, along with his son-respondent No.6/appellant No.2 herein, created false documents with regard to the properties that fell to the share of writ petitioner in the partition, constraining him to file O.S.No.23 of 1988 before the learned Subordinate Judge, Peddapalli, praying for declaration of his title with regard to the suit schedule lands and a further declaration that the registered documents bearing Nos.629, 636 and 700 of 1987 were null, void and not binding on him. The said suit was decreed by the trial Court on 31.01.1992 and the same attained finality. Thereafter, the Collector, Karimnagar District, issued proceedings dated 21.07.1995 directing the Tahsildar, Kataram Mandal, to give effect to the afore-stated decree in the revenue records. Pursuant thereto, the name of the writ petitioner/respondent No.1 herein was entered in the revenue records and a pattadar pass book was also issued to him in relation to the lands covered by the decree, but his name was not incorporated in the pahanis despite his many representations. While-so, the respondent Nos.5 and 6 again approached the Collector of the newly formed Jayashankar-Bhupalpally District, by way of representation dated 21.05.2018

and the Collector, without even conducting an enquiry, issued proceedings dated 15.06.2018 directing incorporation of the name of respondent No.6/appellant No.2 herein in the revenue records and to issue him a pattadar pass book/title deed and the said proceedings were challenged in the impugned writ petitions. When respondents 5 and 6 again tried to interfere with his possession, he filed O.S.No.96 of 2018 before the learned Additional Junior Civil Judge, Manthani, and a temporary injunction order was passed therein on 09.07.2018 in relation to the lands in Sy.Nos.101 and 110 of Nasturpally Village.

5. The learned Single Judge after hearing the writ petitioners and respondents was pleased to allow the Writ Petition Nos.4279, 4292 and 4301 of 2019 vide impugned common order dated 02.04.2019 and set aside the proceedings dated 15.06.2018, 18.06.2018 and 22.06.2018 passed by the learned District Collector, Jayashankar-Bhupalpally District. Further, the learned Single Judge directed the revenue authorities to give complete effect to the decree dated 31.01.1992 passed in O.S.No.23 of 1988 by the learned Subordinate Judge, Peddapalli. Aggrieved by the orders passed in the writ petitions as mentioned above, the present writ appeals are filed.

6. Heard Sri J. Kanakaiah, learned counsel for appellants; Sri E. Madan Mohan Rao, learned counsel for respondent No.1 and learned Government Pleader for Revenue for respondent Nos.2 to 5, in all these appeals and perused the record.

7. Learned counsel for the appellants would submit that the impugned common order dated 02.04.2019 passed in the subject writ petitions, is contrary to law and facts of the case. The judgment and decree dated 31.01.1992 passed in O.S.No.23 of 1988 by the learned Subordinate Judge, Peddapalli, is an *ex parte* decree and the same cannot be ordered to be recorded in revenue records, since the decree holder did not approach the revenue authorities within a period of 12 years from the date of decree. The learned Single Judge did not appreciate the appearance of name of Late P.Narayana Rao in revenue records and the name of the respondent No.1/writ petitioner was not incorporated in the revenue records at any point of time. So the claim of the respondent No.1/writ petitioner cannot be ordered to be recorded in revenue records. The learned Single Judge failed to appreciate that if the claim of the respondent No.1/writ petitioner is true and correct, his name would have been entered in the revenue records. The issuance of pattadar pass book and title deed in favour of the respondent No.1/writ petitioner is totally misleading. The appellants are required to be issued pattadar pass books and title deeds in accordance with the Telangana Rights in Land and Pattadar Pass Books Act, 1971 (for short 'ROR Act') and Rules. The subject matter requires detailed enquiry with regard to the validity of the judgment and decree dated 31.01.1992 and ultimately prayed to allow the writ appeals and set aside the impugned common order dated 02.04.2019 passed in the subject writ petitions.

8. On the other hand, learned counsel for the respondent No.1 supported the impugned common order dated 02.04.2019 passed by the learned Single Judge and contended that the documents on which the appellants are relying, were declared as null and void in the judgment and decree dated 31.01.1992 passed in O.S.No.23 of 1988. The decision made in the said judgment and decree still operates. No entries in the revenue records can be made in favour of the appellants. The learned Single Judge had elaborately discussed all the contentions raised by the appellants herein and rejected the same. The impugned common order passed is in terms of the ROR Act and Rules. The orders passed by the learned District Collector under challenge in the writ petitions suffer from jurisdiction. It is patently illegal and rightly set aside by the learned Single Judge vide impugned common order dated 02.04.2019. No interference is warranted and ultimately prayed to dismiss the Writ Appeals.

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

“Whether the impugned common order dated 02.04.2019 passed in Writ Petition Nos.4279, 4292 and 4301 of 2019 by the learned Single Judge is liable to be set aside?”

10. POINT: In view of the submissions made, it is relevant to state that the learned Single Judge in the impugned common order dated 02.04.2019 referred to relevant provisions of the Telangana Rights in Land and Pattadar Pass Books Act, 1971 and

observed that the Collector did not even choose to mention as to in exercise of what power and under which enactment, he had issued the proceedings under challenge and that once entries are made in the revenue records and a person is aggrieved by any particular entry therein, the remedy provided is by way of an appeal under Section 5(5) thereof to the Revenue Divisional Officer concerned. It was further observed that there is no evidence of any revision having been filed in terms of Section 9 of the ROR Act, 1971 read with Rule 23 of the Rules, 1989. The material placed on record bears out that the respondent No.1 herein/writ petitioner was issued a regular pattadar pass book/title deed in relation to the lands claimed by him under the provisions of the ROR Act. Though the appellant No.1 herein/respondent No.5 claimed that the entry of the names of his family members in the pahanis was sufficient in itself and the direction of the Collector did not really amount to any adjudication, it may be noted that Rule 3 of the Rules, 1989 postulates that a pahani does not constitute the record of rights for the village. As per this rule, the record of rights should be prepared and maintained in Form-I for every separate village. Therefore, entries in the pahanis were of no real import. It was further held that the Collector practically sat in appeal over the Court decree and the judgment dated 31.01.1992 passed in O.S.No.23 of 1988. Further, the record relied upon by the 1st respondent herein/writ petitioner clearly bears out that as long back as in the year 1975, he filed a declaration under the ROR Act leading to the proceedings dated 27.05.1976 of the Land

Reforms Tribunal, Peddapalli, in C.C.No.M/245/75, holding to the effect that the lands held by him and his family unit in Sy.Nos.84, 85, 86, 41, 43, 12, 20, 39, 101, 110 and 131, aggregating to Ac.31.47 guntas, were within the ceiling limit. This document lends overwhelming strength to the claim of the respondent No.1/writ petitioner that these lands fell to his lot in the family partition, whereupon he declared them as the landholdings of his family unit. The learned Single Judge further held that the claims of Panakanti Radha Kishan Rao/appellant No.1 and his family members were built upon registered documents which were held to be null and void by the competent civil Court in the said judgment and decree, which attained finality. Having entered appearance in the said suit, it is not open to Panakanti Radha Kishan Rao/appellant No.1 or the other defendants therein, to claim ignorance of the suit proceedings. Having allowed the judgment passed therein to attain finality, it is too late in the day for Panakanti Radha Kishan Rao/appellant No.1 and his family members to seek to brush aside the declaratory decree passed therein. That apart, their knocking upon the doors of the Collector, Jayashankar-Bhupalpally District, by way of applications is patently contrary to the scheme of the ROR Act, but unfortunately, the Collector, be it for whatever reason, decided to lend them a helping hand, contrary to the settled legal position and procedure and having done so, the Collector went to the extent of sitting in appeal over a Court decree and drew conclusions which were wholly opposed to settled legal principles. Further, the Collector relied upon the

very same documents which had been held to be null and void in the said judgment and decree to uphold the case of Panakanti Radha Kishan Rao/appellant No.1 and his family members.

11. By observing as above, the learned Single Judge held that the Collector was completely unjustified in entertaining the applications made by Panakanti Radha Kishan Rao/appellant No.1 and his family members and in issuing the impugned proceedings in their favour and allowed the writ petitions by setting aside the impugned proceedings dated 15.06.2018, 18.06.2018 and 22.06.2018 of the Collector, Jayashankar-Bhupalpally District and consequently directed the revenue authorities to give complete effect to the decree dated 31.01.1992 passed by the learned Subordinate Judge, Peddapalli, in O.S.No.23 of 1988, by deleting from the revenue records the names of all such persons whose claims are founded on or are traceable to the documents which were held to be null and void therein. The revenue authorities shall also give effect to the declaration of title of the respondent No.1/writ petitioner in relation to the lands covered by the said decree and enter his name in the relevant revenue records and also the pahanis.

12. As held by the learned Single Judge, the proceedings before the District Collector, is neither appeal nor revision, nor it was filed under the ROR Act. Further, the orders dated 15.06.2018, 18.06.2018 and 22.06.2018 were passed by the learned District Collector without notice to the aggrieved person. The declaration of title as well as declaring the subject

documents in O.S.No.23 of 1988 as null and void still operates between the parties to the suit and their successor interest. The observation of the learned District Collector that the judgment and decree passed in O.S.No.23 of 1988 by the Subordinate Judge, Peddapalli, cannot be looked into, is erroneous. The learned District Collector has no jurisdiction over the judgment and decree passed by the Civil Court and to take such a view. The orders passed by the District Collector are without jurisdiction and patently illegal and against the provisions of ROR Act. As per the records placed before this Court, pursuant to the judgment and decree dated 31.01.1992 passed in O.S.No.23 of 1988, mutation orders were passed and the pattadar pass book and title deed was issued in favour of the respondent No.1/writ petitioner. The appellants cannot challenge the same by way of applications before the learned District Collector. The contention of the appellants that the judgment and decree passed in the year 1992 is executable only within a period of 12 years, holds no water. The findings recorded by the learned Single Judge on all the contentions raised on behalf of the appellants are in consonance with record and law.

13. Under these circumstances, none of the submissions made on behalf of the appellants are sustainable. The impugned common order dated 02.04.2019 passed in Writ Petition Nos.4279, 4292 and 4301 of 2019 by the learned Single Judge, is neither perverse nor illegal.

14. The Writ Appeals are devoid of merits and are accordingly dismissed. No order as to costs.

Pending Miscellaneous Petitions, if any, shall stand closed.

RAGHVENDRA SINGH CHAUHAN, ACJ

SHAMEEM AKTHER, J

Date: 10.06.2019

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