

THE HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.16626 OF 2019

Date: 06.08.2019

Between:

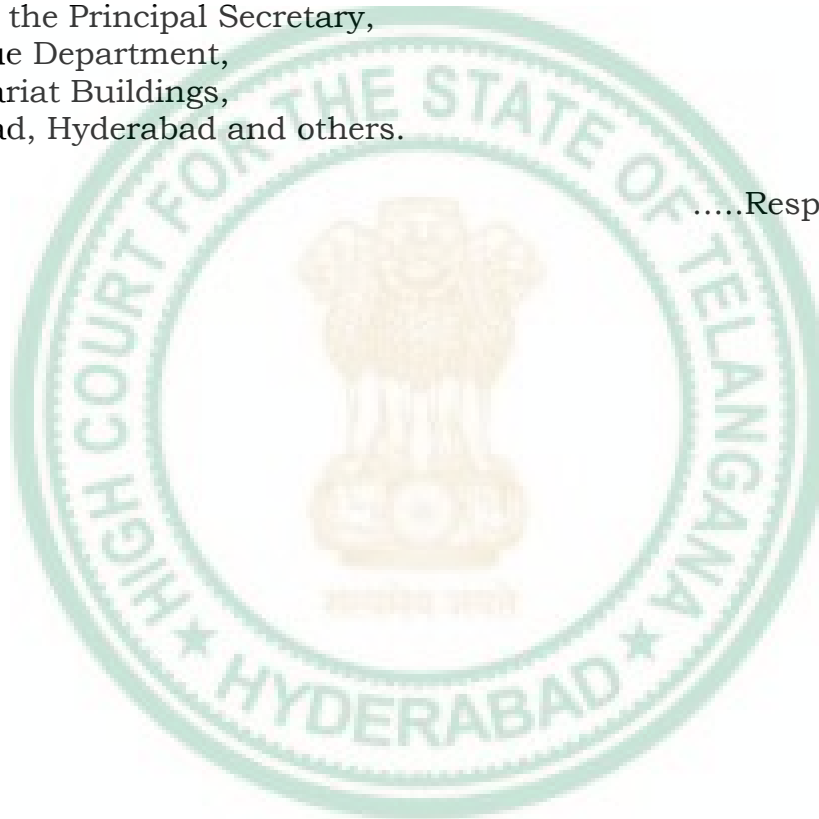
M. Preetham Reddy S/o.Venkatram Reddy,
aged 46 yrs, Occu : Business,
R/o.2-3-70/55, Anantharam Nagar,
Amberpet, Hyderabad.

.....Petitioner

And

State of Telangana,
rep. by the Principal Secretary,
Revenue Department,
Secretariat Buildings,
Saifabad, Hyderabad and others.

.....Respondents



The Court made the following:

HONOURABLE SRI JUSTICE P.NAVEEN RAO

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ORDER :

Heard learned counsel for the petitioner and learned Government Pleader for Revenue for respondents 1 to 4.

2. Petitioner claims to be the purchaser of land to an extent of Ac.1-00 guntas in Sy.No.317, Ac.0-31 guntas in Sy.No.318, Ac.1-00 guntas in Sy.No.319, Ac.2-00 guntas in Sy.No.313 and Ac.0-30 guntas in Sy.No.320 of Adibatla Village, Ibrahimpatnam Mandal, Ranga Reddy District, having purchased the same by way of registered sale deeds dated 19.12.2012 from different vendors and is in possession and enjoyment of the said properties. In this writ petition petitioner challenges the notice issued by the Tahsildar under A.P. (Telangana Area) Tenancy & Agricultural Lands Act, 1950 (for short 'the Act, 1950'). This notice is issued in response to application filed before him, alleging that provisions of the Act, 1950 are violated and lands are purchased from the original pattadar, even though tenancy was granted. Section 38-E Certificate was granted on 26.08.1975 and the same is illegal.

3. According to learned counsel for the petitioner, the said notice is challenged on the following grounds :

i) The Tahsildar is incompetent to initiate proceedings. This is on the premise that petitioner purchased the land from the persons in whose favour Section 38-E Certificate was issued and persons who purchased the land from Section 38-E Certificate holders. Therefore, the said purchase is not vitiated. Once Section

38-E Certificate is issued, the holder of Section 38-E Certificate is competent to deal with the property like any other land owner. Therefore, proceedings under the Act, 1950 are not maintainable.

ii) There cannot be successive succession proceedings. Succession was already acted upon and Section 38-E certificate was granted to successors of tenants and their names are reflected in the tenancy certificates and ;

iii) On the same subject matter suit in O.S.No.183 of 2014 is filed on the file of IV Additional District Judge, Ranga Reddy. In the said suit, plaintiffs not only sought for partition of the properties but they have also challenged registration of sale deeds executed in favour of petitioner and when the suit is pending, the present application is not maintainable. It is further contended that there is delay in initiating such proceedings even assuming that the proceedings are maintainable.

4. From a plain reading of contents of the petition filed under Section 38-E (2) (5) of the Act, 1950 it is seen that the applicants therein were contending that the petitioner herein purchased the land from the original pattadar and the same would be in violation of the statute and therefore, sought intervention of the Tahsildar to cancel the sale transaction and to restore the possession of land in their favour. In the impugned notice the same is reflected.

5. What is contended by learned counsel for petitioner and contentions urged in this writ petition and the material enclosed to the writ petition paper book appears to be not within the knowledge of the Tahsildar when such notice was issued. In response to the said notice, petitioner ought to have filed his objections raising all the contentions as urged herein.

6. From a reading of the complaint filed by the applicants before Tahsildar, it cannot be said that Tahsildar is incompetent to exercise jurisdiction, as the allegation made in the complaint was that land was purchased from the pattadars even though tenants were granted Section 38-E certificate. If what is alleged is true, the Tahsildar is competent to exercise power under the Act, 1950 and initiate proceedings to restore possession and to cancel illegal transactions. The proceedings can be entertained based on the pleadings urged before him and the Tahsildar is competent to look into the grievance of violation of terms of the Provisions of the Act, 1950 and the notice cannot be held as vitiated on that ground.

7. However, the contentions urged by learned counsel for petitioner, prima facie, appear to be valid and if those contentions are looked into, the entire proceedings before the Tahsildar, per se becomes invalid. Therefore, petitioner is granted liberty to raise all the pleas as available in law, including those urged in this writ petition and the Tahsildar shall consider the objections filed by the petitioner as preliminary to the issue and if he holds that the application made before him is maintainable, to decide the matter on merits.

8. With the above observations, the writ petition is disposed of. Pending miscellaneous petitions, if any, shall stand closed.

P NAVEEN RAO,J

6th August, 2019
Rds