

HIGH COURT FOR THE STATE OF TELANGANA

**THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN
AND**

THE HON'BLE SRI JUSTICE A. ABHISHEK REDDY

WRIT APPEAL No.780 of 2019

Date: 11.11.2019

Between:

Polam Laxman, and others

... Appellants

and

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

... Respondents

Counsel for the appellants: Mr. Madhava Laxmaiah

**Counsel for the respondent Nos.1, 3 to 5 & 7: Mr. Bhaskar Reddy
GP for Revenue**

The Court made the following:

JUDGMENT: (per the Hon'ble Sri Justice A. Abhishek Reddy)

The present appeal is filed challenging the legality of the order dated 10.07.2019, passed by a learned Single Judge, in W.P.No.14010 of 2019, whereby the learned Single Judge has dismissed the writ petition filed by the appellants-petitioners.

2) Briefly the facts of the case, as stated by the appellants, are that originally, the ancestor of the appellants-petitioners, namely Polam Chandrudu, was the owner and pattadar of agricultural land, to an extent of Acs.92.00 guntas, situated in old Survey Nos.168, 174, 175, 176 and 177 of Gundlapally Village (Dindi) and Mandal, Nalgonda District. The then Nizam Government acquired the said lands along with other lands for the purpose of construction of Dindi Project. The appellants allege that out of Acs.92.00 guntas of land, only Acs.45.00 guntas of land was acquired and the remaining Acs.47.00 guntas of land was in the name of the original pattadar, Polam Chandrudu, and after his demise, the lands are in possession of his successors. Since the forefathers of the appellants have sold away Acs.8.00 guntas of land to one K. Pandu Ranga Rao, the appellants are in possession and cultivation of the remaining Acs.39.00 guntas of land. Though the appellants-petitioners have averred that they filed a representation, dated 06.03.2019, seeking mutation of their names of the lands in Sy.Nos.372/1, 372/2, 372/3, 372/4, 372/5 and 372/6 to an extent of Acs.39.00 situated at Dindi Village, Nalgonda

District, in Pahani and ROR, the impugned Memo, dated 20.03.2014, issued by respondent No.5 speaks of an application filed by the sons of K. Pandu Ranga Rao seeking mutation of their names in respect of only Acs.8.00 guntas of land situated in Survey Nos. 372/1, 372/2, 372/3, 372/4, 372/5 and 372/6 of Gundlapally Village. Respondent No.5, the Tahsildar, Gundlapally Mandal, issued Memo bearing No.A/2466/2013, dated 20.03.2014, informing them that as per the instructions of the District Collector, Nalgonda, in Lr.No.E1/210/2007, dated 04.02.2009, the then Tahsildar, Gundlapally Mandal, has already mutated the name of the Executive Engineer, I.B. Division, Nalgonda, in respect of an extent of Ac.433.31 guntas in various Survey Numbers including the petitioners' lands in Survey Nos. 372/1, 372/2, 372/3, 372/4, 372/5 and 372/6, as the lands were acquired for Dindi Project long back, therefore, their names could not be mutated, and they can seek redressal of their grievance by way of appeal or revision before the competent authority under the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short, 'ROR Act'). Challenging the said Memo, the appellants have filed the writ petition.

3) The learned Single Judge, by the impugned order, dismissed the writ petition on the ground of delay and laches. Hence, this appeal.

4) We have heard the learned counsel for the parties and perused the record.

5) A bare perusal of the impugned order clearly reveals that the learned Single Judge has dismissed the writ petition on the ground of inordinate delay and laches and holding, if the appellants are aggrieved by the entries made in the Pahanies, an efficacious alternative remedy of Appeal is available to them under the Act. Therefore, the appellants are free to file an appeal before the concerned authorities and seek redressal of their grievance.

6) In view of the above findings, we do not find any illegality or perversity in the impugned order. That this Court as well as Hon'ble Supreme Court in number of cases has held that where there is an alternative remedy available under the statute, which is efficacious, the jurisdiction under Article 226 of the Constitution of India, should be sparingly used. When the statute provides for filing of an appeal or revision entertaining a Writ Petition under Article 226 of the Constitution of India is not proper unless and until the party is able to prove that the order passed by the primary authority is without jurisdiction or that principles of natural justice were not followed. In this particular case, the entries which are made in the revenue records are made on the basis of the acquisition done for the purpose of Dindi Project, which took place more than six decades ago and if the appellants are aggrieved by the same, they have every right to file an appeal/revision provided under the statute and in fact, the

primary authority before whom the representation was made has also done the same.

7) The Hon'ble Supreme Court in the decision reported in ***ABL International Ltd. v. Export Credit Guarantee Corporation of India Ltd***¹ has cautioned the High Courts and held at para 28 as under:-

“while entertaining an objection as to the maintainability of a writ petition under Article 226 of the Constitution of India, the court should bear in mind the fact that the power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provisions of the Constitution. The High Court having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. The Court has imposed upon itself certain restrictions in the exercise of this power. [See: Whirlpool Corporation vs. Registrar of Trade Marks ((1998) 8 SCC 1)] And this plenary right of the High Court to issue a prerogative writ will not normally be exercised by the Court to the exclusion of other available remedies unless such action of the State or its instrumentality is arbitrary and unreasonable so as to violate the constitutional mandate of Article 14 or for other valid and legitimate reasons, for which the court thinks it necessary to exercise the said jurisdiction.”

8) In the decision reported in ***Commissioner of Income Tax v. Chhabil Dass Agarwal***², the Hon'ble Supreme Court held as under:

“.....has recognized some exceptions to the rule of alternative remedy, i.e., where the statutory authority

¹ (2004) 3 SCC 553

² (2014) 1 SCC 603

has not acted in accordance with the provisions of the enactment in question, or in defiance of the fundamental principles of judicial procedure, or has resorted to invoke the provisions which are repealed, or when an order has been passed in total violation of the principles of natural justice..... the High Court will not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance still holds the field. Therefore, when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation.”

9) Even in this particular case, the ROR Act is a complete Code in itself which provides the remedy of appeal and revision for correcting the wrong entries if any made and the same is efficacious and effective remedy. The appellants have not made out any case for bypassing the same.

10) This writ appeal, being devoid of any merit, is hereby dismissed. There shall be no order as to costs.

As a sequel, miscellaneous petitions, pending if any, shall also stand dismissed.

(RAGHVENDRA SINGH CHAUHAN, CJ)

(A. ABHISHEK REDDY, J)

Date: 11.11.2019
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