HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.17917 OF 2019

Date: 28.08.2019

Between:

G. Yakender Reddy,
S/o.Laxma Reddy, Aged about 52 yrs,
Occu : Business, R/o.Flat No.203,
Plot No.50, 51 & 51/A, Lotuspand Apartment,
Almasguda Kaman, Meerpet, Hyderabad.

.....Petitioner

And

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

.....Respondents

The Court made the following:

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ORDER:

Heard learned counsel for petitioner and learned Assistant Government Pleader for Revenue.

2. According to material averments in the affidavit filed in support of the writ petition, petitioner became the absolute owner by virtue of registered sale deed No.1997/2017, dated 09.05.2017 on the agriculture land admeasuring Ac.1-01 gunta in Sy.No.780/A at Shameerpet Village and Mandal, Medchal-Malkajgiri District. On 19.10.2017, the Tahsildar-3rd respondent mutated the name of the petitioner as pattadar and Possessor of the above land in the ROR after enquiry in file No.B/2452/2017. Petitioner alleges that the 7th respondent by playing fraud obtained registered sale deed document No.5625/2018 dated 27.08.2018 on the same property from the petitioner. Petitioner filed O.S.No.273 of 2019 praying to grant decree to cancel the registered sale deed. The trial Court by order dated 11.07.2019 made in I.A.No.907 of 2019 granted interim injunction against the 7th respondent restraining him from alienating the above land and said interim injunction is subsisting. While so, on 15.07.2019 the 4th respondent claiming to have purchased the said land, made an application to the 2nd respondent-the Joint Collector directly to take the application as suo-moto revision under Section 9 of the Telangana State Rights in Land and Pattadar Passbooks Act, 1971 (for short the Act, 1971) and to revise the order passed by the 3rd respondent previously to correct the entries in revenue records and to cancel the order of Revenue Divisional Officer granting

permission to convert the land for non-agricultural purposes. Based on the said application the 2nd respondent registered the same as suo-moto revision under Section 9 of the Act, 1971 and issued notice dated 22.07.2019. Challenging the said notice this writ petition is filed.

3. According to learned counsel for the petitioner, the Joint Collector is not competent to take up suo-moto revision on an application filed by a person who is a contesting party. It has to be on his own. He ought to have considered the scope of such revision and grounds on which revision is to be entertained but the same is not recorded in the notice issued to the petitioner. He would further submit that without availing the statutory remedy of appeal revision cannot be entertained.

4. In support of his contentions, he placed reliance on the following decisions:

Bhupathi Varalamma Vs Joint Director, Krishna, Chilakalapudi, Machilipatnam, Krishna district and others[1] and **Yelangani Papaiah and another Vs Joint Collector, Ranga Reddy district and others**[2].

5. Section 9 of the Act, vests residuary power in the revisional authority who is superior by two stages in rank to that of Tahsildar and he is next only to the District Collector of the concerned district. In fact, he exercises most of the powers vested in the District Collector under various revenue laws. Thus, extraordinary residuary power is conferred on the revisional authority to correct

[1] 2008 (5) ALD 676
[2] 2009 (1) ALD 297

illegalities committed by the subordinates affecting the rights of the individuals, more particularly, concerning the landed property.

6. From the application/representation made by the 4th respondent, it appears 4th respondent was alleging that after the total extent of Ac.13-01 guntas in Sy.No.780 of Shameerpet Village, he and others purchased Ac.10-06 guntas vide registered document No.6587 of 1982 and their names are mutated in the revenue records in pattadar column and the remaining extent of land was also disposed of to others by the original pattadar. Thus, no land was left with the original pattadar. He would further allege that some purchasers have also disposed of their land by making into plots. Ac.9-16 guntas of land was acquired by Hyderabad Metropolitan Development Authority for outer ring road purpose from out of the above extent of land. After such acquisition Ac.0-36 guntas and Ac.2-29 guntas was available in Sy.Nos.780/1 and 780/3.

7. He alleges that one of the joint pattadars, Sri B.Nagender Reddy who was a co-vendor to the sale deed executed in favour of petitioner, sold Ac.1-01 guntas in Sy.No.780/A in Upparapalli Village H/o.Shamirpet Mandal in favour of Sri P.Vikram Deva Reddy vide registered document of the year 2011. Sri G.Yakender Reddy claimed that he purchased the land from Sri B.Nagender Reddy through sale deed dated 09.05.2017. Based on the said sale transaction, the Tahsildar mutated the name of Sri G. Yakender Reddy, deleting the name of P. Vikram Deva Reddy. Sri G. Yakender Reddy also got conversion of land for non-agricultural purpose. He sold the same land to Sri Nimmaneni Sanjeeva Rao through registered document of the year 2018 by mentioning

Survey number as 780/A. By such date there was no land available with original pattadar.

8. The complainant alleges that all these proceedings are ex-facie illegal and the persons took advantage of entries in the revenue records inspite of acquisition made by the Government and such action is illegal. He therefore, sought for setting aside the order of Tahsildar dated 19.10.2017 mutating the name of Sri G. Yakender Reddy, to cancel conversion of land for non-agricultural purpose ordered by Revenue Divisional Officer and to effect acquisition of land vesting in the State in the revenue records. He further alleges that under the guise of the said proceedings, the persons are encroaching into the land of petitioner and also of the Government land.

9. Ordinarily a person aggrieved by correction/alteration in the revenue records to his detriment by Tahsildar has to avail the remedy of appeal before the Revenue Divisional Officer and thereafter to prefer revision. However there is no absolute bar in entertaining the revision by the revisional authority and it is not subjected to prior exhausting appeal. As against fixation of time limit to prefer revision no time limit is prescribed in the Act, 1971 to prefer revision. However, as held by the Hon'ble Supreme Court and this Court in several decisions, whenever there is no time limit prescribed to entertain application/petition/revision petition, the same has to be within a reasonable time. What is reasonable time depends on a given facts of the case. Thus, it cannot be said that the revision is not maintainable straight away.

10. It is seen from the complaint/petition submitted by 4th respondent that it is not a simple case of a person complaining of wrong entries made in the revenue records by Tahsildar detrimental to the applicant/revision petitioner before the Joint Collector. From a reading of the complaint it also appears that complainant in not only complaining against mutation proceedings by the Tahsildar, but he was also complaining against the Revenue Divisional Officer granting permission for conversion to non-agricultural purpose. The appeal against decision of Tahsildar is to Revenue Divisional Officer only. The Revenue Divisional Officer cannot consider the other grievance of the petitioner therein regarding granting conversion order and necessarily he has to go before the Joint Collector as a higher authority over and above the Revenue Divisional Officer. These issues are interconnected and cannot be separated. In the facts of this case the decision relied upon by learned counsel for petitioner do not come to the aid of petitioner.

11. Further the allegation if looked into deeply has serious ramifications. According to complaint the original landlord sold the entire extent of land belonging to him and by the time, the joint pattadar sold Ac.1-01 gunta of land in the year 2011, there was no land left with them. Further even though large extent of land was acquired by the Government, the name of original pattadars/ occupiers/subsequent purchasers continued to be reflected though no such land exists in their name. This was taken advantage leading to multiple fictitious transactions. Therefore it is all the more necessary for the Joint Collector to exercise revisional power

and to remedy the illegalities alleged to have been committed by his subordinates.

12. Further on a closer reading of Section 9 of the Act, 1971, it is not necessary that a suo-moto revision ought to be entertained by the Joint Collector on his own. A suo-moto revision can be at the instance of any person or whenever allegation of wrong exercise of power by the subordinates is brought to his notice, the same can be treated as a suo moto revision. In the instant case, the complaint/petition filed by 4th respondent was considered and therefore, he treated the same as suo-moto revision and issued notices. Thus, prima-facie it cannot be said revisional authority exceeded his jurisdiction to entertain the revision.

13. Further, since it is only a notice and matter is pending consideration of the revisional authority, it is always open to raise all objections as available to him in law and invite a decision from the revisional authority. As the Court is of the *prima-facie* view that the suo-moto revision in the instant case is maintainable, this Court is not inclined to entertain the writ petition and relegate the petitioner to respond to the notice issued with liberty to raise all objections as available in law.

14. Writ Petition is accordingly, dismissed. However, it is made clear that observations made herein are only for the purpose of consideration of contentions urged by learned counsel for petitioner that suo-moto revision in the manner in which it is now entertained by the revisional authority is not maintainable on the various aspects urged in the writ petition. The revisional authority is at liberty to objectively consider all objections including

objections raised in this writ petition uninfluenced by the observations made herein above. Pending miscellaneous petitions, if any, shall stand closed.

P.NAVEEN RAO,J

Date : 28.08.2019
Rds

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