HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 21731 of 2019

Date : 14 .10.2019

Between:
A Satyanarayana Murty S/o A Sitharamaiah
81 years Occ Agriculturist R/o 701 Model House Punjagutta
Hyderabad and another

Petitioners

And

The State of Telangana
represented by its Principal Secretary Revenue Department
Secretariat Hyderabad & others

Respondents

The Court made the following:

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ORAL ORDER:

Heard learned counsel for petitioner and learned standing counsel for respondents.

2. Petitioners are challenging the decision of the Joint Collector dated 17.8.2019 made in exercise of revisional jurisdiction under Section 9 of the Telangana Rights in Land & Pattadar Pass Books Act, 1971 (for short the Act,1971). By this order, the Joint Collector entertained the revision filed by Kolluri Krishna/5th respondent herein, challenging the decision of the Revenue Divisional Officer dated 25.11.2017 Tahsildar issued mutation orders in favour of Sri Jalli Krishna and Sri Jalli Jayaram to an extent of Ac.1.18 guntas and Ac.1.00 respectively in survey No.487, Mancherevula village. Aggrieved thereby, petitioners herein preferred appeal before the Revenue Divisional Officer. The Revenue Divisional Officer reversed the decision of the Tahsildar. The 5th respondent who is not a party either before the Tahsildar or before the Revenue Divisional Officer, preferred revision contending that Ac.1.18 guntas and Ac.1.00 in survey No. 487, Mancherevula village has fallen to his share in the family partition out of the land originally owned by Sri Kolluri Anjaian and therefore, the question of mutation of names of other persons and granting relief in favour of petitioners was not valid in law.

3. On considering the rival submissions and tracing the history of litigation as well as claims of Sri Kolluri Anjaiah family of alleged purchase made by them from the original pattadar by name Hyder Ali Mirza as early as on 10.10.1955 and subsequent decisions of the revenue authorities and contrary claim of other persons who also claims to have purchased from the same vendor and subsequent transactions, the

revisional authority held that decision of the appellate authority where under reversed the decision of the Mandal Revenue Officer holding that the Mandal Revenue Officer in File No. D/2985/2005 and D/54/2008 stated to have issued fraudulently, which is illegal and unsustainable and accordingly partly sets aside the same, granting liberty to the aggrieved parties to avail the civil law remedy.

4. Originally Hyder Ali Mirza was pattadar of large extents of land. According to family members of late Sri Kolluri Anjaiah, by way of unregistered sale deed dated 10.10.1955 executed by Sri Hyder Ali Mirza, Sri Kolluri Anjaiah purchased land to an extent of Ac.76.07 in survey Nos. 477 to 480 and 483 to 494 and 497 of Mancherevula village. They placed reliance on Nazim Atiyath judgment dated 9.5.1959 in Case No. 187 of 1957 and orders of the Tahsildar according sanction for mutation of the above extents of land in favour of Sri Kolluri Anjaiah. Various extents of land forming part of the above land in above survey numbers has been subject matter of rival claims by several others including persons claiming as family members of Sri Hyder Ali Mirza. The Joint Collector passed orders on 4.1.2018 in exercise of revisional jurisdiction. Challenging the said decision of the Joint Collector and incidentally claiming other reliefs, W P No. 3936 of 2018 and batch are filed, some of them by family members of late Sri Kolluri Anjaiah and some by rival claimants. The batch of writ petitions were heard and disposed of by common order dated 4.6.2019.

5. On going through the relevant record, the submissions made and law on the subject, learned single Judge was pleased to note that though title claimed through unregistered sale deed stated to have been executed by Sri Hyder Ali Mirza in favour of Sri Kolluri Anjaiah, it was not subjected to regularization under Section 5-A of the Act, 1971; that case before the Nazim Atiyat has to be examined as the scope of enquiry

had to be as per the Hyderabad Atiyat Inquiries Act, 1952, but there is no evidence of any circumstances warranting exercise of jurisdiction by the Nazim Atiyat, in terms of the land sold being the subject of an Atiyat grant; though heavy reliance was placed on revenue proceedings of 1962 and 1991, there was no explanation as to why mutation was not carried out fully in the revenue records; never asserted any ownership or possesory rights in terms of filing declarations under the relevant ceiling laws or staking a claim in relation to the compensation payable for the compulsory acquisition of part of the land covered by the unregistered sale deed dated 10.10.1955; that name of Hyder Ali Mirza continues to be shown in pattadar pass books of the subject lands; that there is no explanation as to why Kolluri Viswanadham, one of the sons of Kolluri Anjaiah joined as an intending purchaser under the agreement of sale dated 25.12.1985, if his father has already purchased entire land in the year 1955.

6. Learned single Judge also recorded the litigation prosecuted by rival claimants to the subject property. Learned single Judge observed that whenever the competent authority is informed that the suit is instituted in civil Court to establish his superior title and an authenticated copy of the plaint in the suit is produced, the Mandal Revenue Officer cannot register the name of the person under the Act, 1971 and should await decision of the competent Court.

7. On going through the relevant provisions of the Act, 1971 and Rules made thereunder, learned single Judge observed that Act, 1971 does not empower revenue authorities to undertake resolution of multifarious and complicated rival claims of title over agricultural land. As the Act of 1971, being a summary one, procedure is limited and complicated disputes relating to rival title claims cannot be resolved by the revenue authorities in such summary proceedings.

8. The learned single Judge also observed that revenue authorities are not competent to set at naught either registered transactions or judgments and decrees passed by competent civil Courts. Whereas, the revenue authorities have undertaken the exercise of annulling the registered transactions and set at naught judgments and decrees passed by competent civil Courts. Accordingly, revisional authority orders dated 4.1.2018, appellate authority order dated 29.9.2016 and primary authority order dated 3.8.2010 were set aside.

8.1 The operative portion of the order reads as under:

> "In the light of the aforestated scenario, it may be noted that though Hyder Ali Mirza died long ago, his name continues to remain in the pattadar column in the revenue records as against the lands in question. At this stage, it may also be noted that there is no clarity as to the actual date of death of Hyder Ali Mirza. Some say he died in 1983 while others claim that it was in 1990. Though the legal heirs of Kolluri Anjaiah claim that mutation proceedings were issued in the year 1962 itself and thereafter in the year 1991, it is an admitted fact that the same were never fully acted upon. Though the later order of the Tahsildar, Rajendranagar Mandal, passed in the year 1995 seems to speak in favour of Kolluri family, as already stated supra, given the complicated questions that would arise in the light of the rival claims put forth by the parties, only a competent civil Court can undertake resolution of the same. The findings of the revenue authorities, be it in favour of one or the other party to these proceedings, cannot therefore be permitted to allow them to steal an advantage over the others. The revenue authorities seem to have been swayed in favour of one or the other parties at different points of time and no value can be attached to such orders in the context of testing the genuineness and validity of the rival title claims of the parties. All the more so, when the revenue authorities blatantly acted in excess of their powers in passing such orders and nullified registered transactions and Court decrees. Be it noted that as on date, A.S.No.20 of 2003, A.S.No.610 of 1997, C.M.A.Nos.366 and 365 of 2018 are pending on the file of this Court while O.S.No.891 of 2014 and 892 of 2014 are pending before the learned XIII Additional District Judge, Ranga Reddy District, and E.P.No.55 of 1998 arising out of the decree in O.S.No.154 of 1988 on the file of the learned Principal Subordinate Judge, Ranga Reddy District, is also pending. However, this pending litigation would not encompass and address all the issues and disputes that would arise in the context of the rival title claims of the parties to these writ petitions. It is therefore for the parties who are asserting such rival claims to approach the competent civil Court and seek redressal as to their claimed ownership rights, in terms of declaratory relief. In the meanwhile, the revenue authorities shall continue to maintain the name of Hyder Ali Mirza in the revenue records as against the subject lands but on the strength thereof, none of the parties to these proceedings shall be at liberty to undertake registration of any documents. Any transgression in this regard would not entitle the executant or the beneficiary of such document to any relief or to any rights in equity."

9. In the instant writ petition, petitioners contend that the Joint Collector who was also party to the earlier round of litigation and

having knowledge of the directions issued by the learned single Judge in the above writ petitions could not have entertained the revision and passed orders setting at naught the earlier directions issued by the Revenue Divisional Officer and ought to have relegated parties to the civil Court. Learned counsel therefore contended that the directions issued by the learned single Judge are also applicable to the case on hand and accordingly, orders of the Joint Collector are liable to be set aside.

10. Sri Vedula Srinivas, learned counsel appearing for 5th respondent would submit that the issue is covered by the decision of this Court in the earlier round of litigation and same directions may also be issued in this writ petition.

11. Having regard to the said submissions and as I am satisfied that the issue in this writ petition is covered by earlier decision dated 4.6.2019 in W P No. 3936 of 2018 and batch, writ petition is disposed of granting liberty to petitioners and 5th respondent herein to approach the competent civil Court and to seek redressal as to their claims on ownership rights and in the meanwhile revenue authorities are directed to continue to maintain the name of Sri Hyder Ali Mirza in the revenue records against land to an extent of Ac.1.18 guntas and Ac.1.00 respectively in Survey No. 487 of Mancherevula village. However, none of the parties to the proceedings should be at liberty to undertake registration of deeds of conveyance concerning the above extent of land till issue is adjudicated. Miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

DATE: 14-10-2019
TVK

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