THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION Nos.23833 AND 23840 OF 2019

Date:01.11.2019

W.P.No.23833 of 2019:

Between:

A.S.N. Raju, S/o. A.V.S. Raju,
Aged about 57 years, R/o.Plot No.168 A,
Road No.10, Jubilee Hills, Hyderabad
And another .. Petitioners

And

The State of Telangana, rep., by its
Principal Secretary (Revenue)
Secretariat, Hyderabad and others .. Respondents

The Court made the following:

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION Nos.23833 AND 23840 OF 2019

COMMON ORDER:

Heard learned counsel for the petitioners, learned Government Pleader for Revenue for respondents 1 to 3, Sri N. Vasudeva Reddy, learned counsel for respondents 14 and 16 in W.P.No.23833 of 2019 and respondents 4 and 6 in W.P.No.23840 of 2019, and Sri E. Ajay Reddy, learned counsel for respondents 6 to 13 and 15 in W.P.No.23833 of 2019 and respondents 5, 9 to 13 in W.P.No.23840 of 2019.

2. This is the second round of litigation. Against the proceedings of Tahsildar dated 21.01.2009 validating the unregistered sale deed in favour of the unofficial respondents as confirmed by the appellate authority and the revisional authority the petitioners herein filed W.P.No.2616 of 2012. By order dated 13.07.2016, learned single Judge, having held that the proceedings are not validly made, set aside the same and remanded to the 3rd respondent therein to issue fresh notices to the petitioners. Learned Judge also directed to conduct survey by the Assistant Director of Survey and Land Records, Ranga Reddy District, on the lands claimed by the petitioners and the 4th respondent by giving prior notice to both the parties and respondents 5 to 11 therein and based on the survey report, the Tahsildar was directed to settle the issue. In terms thereof, the Tahsildar passed orders on 14.02.2018 holding that the claim for regularization of unregistered sale deed is not valid and that the applicants are not entitled to regularization as their vendor was

not a pattadar as on the date of regularization i.e., 21.10.2009. Aggrieved thereby, the unofficial respondents preferred appeals before the Revenue Divisional Officer. By order dated 24.10.2019, the Revenue Divisional Officer reversed the decision of the Tahsildar and affirmed the earlier decision of the Tahsildar dated 21.01.2009, which was set aside by this Court and directed for taking up the proceedings for validating the sale deed and mutation of the names of the unofficial respondents in the revenue records.

3. Briefly noted the undisputed facts are as under:

The original vendor of both parties is same and he was the owner and pattadar of land admeasuring Acs.5.21 guntas in Survey No.295/2 and both of them claimed to have purchased the entire extent of land by two different sale transactions, one is unregistered, in favour of unofficial respondents but earlier in point of time, and another is registered, in favour of the petitioners. According to survey report, the petitioners claim to be in possession of land admeasuring Acs.4.36 guntas on ground covered by compound wall and the unofficial respondents are in possession of land admeasuring Acs.3.38 guntas on ground covered partly fenced and a part of land admeasuring Acs.6.39 guntas is covered by Outer Ring Road and the remaining land admeasuring Acs.3.23 guntas is in possession of others.

4. It is interesting to read the order of the Revenue Divisional Officer, dated 24.10.2019, which is as under:

> "… The Hon'ble High Court in its order dated 13.07.2016 in W.P.No.2616 of 2012 at Para No.32 directed to decide whether Respondent Nos.5 to 11 or persons claiming

through them are entitled to Form-XIII-B Certificate U/s.5-A. Thus, it is clear that the appellants are entitled to XIII-B Certificate U/s.5-A of ROR Act. Hence, the **XIII-B Certificate issued by the then DC & Tahsildar, Rajendranagar Mandal (Presently Gandipet Mandal) vide Procgs.No.ROR/D/7248/2005, dt.21.01.2009 is hereby confirmed.**

The appellants are stated to have already deposited necessary charges towards registration fee and stamp duty during earlier proceedings in file No.ROR/D/7248/2005, dated 21.01.2009.

It is hereby made clear that confirmation of validation certificate in favour of appellant shall in no way effect the rights of respondent 2 to 4 in respect of land which they are found to be in possession as per the report of the Assistant Director S & LR, RR District, dated 26.05.2017.

Accordingly, appeals are allowed. The Tahsildar, Gandipet, is hereby directed to update the Revenue records, taking into consideration the report of the Asst. Director, S&LR, RR District, dated 26.05.2017."

5. This order is challenged on various grounds. However, it is suffice to note, at this stage, the contention of learned counsel for the petitioners that the order is *ex facie* illegal, as there cannot be validation of the order of Tahsildar, which was already set aside by learned single Judge of this Court in the earlier round of litigation affirmed by the Division Bench and not a speaking order. Therefore, according to learned counsel for the petitioners, on the claim of the appellants before the Revenue Divisional Officer, he ought to have considered issues afresh and passed comprehensive orders.

6. Having regard to the brief facts noted in paragraph No.3, whether the claim of the appellants to validate an unregistered sale deed is valid and with reference to the extent of land claimed to

have been purchased from same vendor by both parties, whether the said land is overlapping with that of the petitioners, the Revenue Divisional Officer ought to have gone into all aspects elaborately and decided the issue duly taking note of the findings recorded by the Tahsildar in his order. But, he proceeded to validate an order which does not exist. Further, the issue as to whether the agreement of sale in favour of unofficial respondents covers the land which was subsequently sold by way of a registered sale deed to the petitioners was not looked into.

7. The decision of the Revenue Divisional Officer, though lengthy, does not meet the parameters of a decision deciding a dispute between two parties. It does not deal with respective contentions and does not assign reasons in support of the decision. Primarily, there cannot be validation of the order of Tahsildar, which was already set aside by learned single Judge of this Court in earlier round of litigation. It does not exist in law. Therefore it is *ex facie* illegal on this ground alone. Having regard to the same, all the learned counsel agreed that the matter be remanded to the Revenue Divisional Officer by setting aside his orders impugned herein, for consideration of appeals afresh.

8. In view of the same, the order impugned is set aside and the matters are remanded to the Revenue Divisional Officer. Having regard to the long pendency of the issue, the Revenue Divisional Officer is directed to expedite the hearing and conduct proceedings on day to day basis and complete the proceedings by affording due opportunity to both parties. The entire exercise shall be completed within a period of six weeks from the date of receipt of a copy of

this order. It is made clear that there is no expression of opinion on merits and discussion herein above is only for the purpose of testing the contentions urged on behalf of the petitioners on *ex facie* illegality of the order of Revenue Divisional officer. It is open to the parties to raise all pleas available in law and the Revenue Divisional Officer shall consider the respective submissions objectively uninfluenced by any of the observations made herein above.

9. The Writ Petitions are accordingly allowed. Pending miscellaneous petitions, if any, shall stand closed.

P.NAVEEN RAO, J

Date:01.11.2019
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