THE HON'BLE SRI JUSTICE P NAVEEN RAO

W.P.Nos 28473, 28475 and 27718 of 2019

Date: 24.12.2019

W.P.No.28473 of 2019:

Between:

M/s. Mahavir Builders,
A Registered partnership Firm,
Having its office at 507, Mahavir House,
Basheerbagh Square, Hyderabad,
Rep.by its Managing Partner
Pravin K.Dedhia, son of Khimji Dedhia.

..... Petitioner

And

The State of Telangana, rep.by the
Prl.Secretary, Department of Revenue,
Secretariat Building, Hyderabad and
others.

..... Respondents

This Court made the following:

THE HON'BLE SRI JUSTICE P NAVEEN RAO

W.P.Nos 28473, 28475 and 27718 of 2019

COMMON ORDER:

Heard Mr. Y.Ashok Raj, learned counsel for petitioners in W.P.Nos.28473 and 28475 of 2019; Mr. A.K.Narasimha Rao, learned counsel for petitioners in W.P.No.27718; learned Government Pleader for Revenue for respondents 1 to 4 and Sri S.V.S. Chowdary learned counsel for respondents 5 and 6 in all the Writ Petitions.

2. All these three writ petitions are filed challenging the orders of Joint Collector in Case No. D5/5486/2017 dated 19.11.2019, wherein, M/s. Mahavir Builders/writ petitioner in W P Nos. 28473 and 28475 of 2019 is respondent no.8; Dargupally Shankaraiah and Dargupally Narasimha/writ petitioner in WP No. 27718 of 2019 are respondents 2 and 3; Dargupally Ramulu, D.Krishna, B.Suresh, P Laxman Rao, M/s Manjunatha Realtors (P) Ltd- respondents 10 and 13 to 16 in W P Nos. 28473 and 28475 of 2019 are respondents 1, 4 to 7; and B Shivarama Prasad, K.Srinivas Rao, C.Rajagopal Chowdary, E.Bhaskar Rao and M.Gopinath- respondents 5 to 9 in all the three writ petitions are revision petitioners.

3. The history of litigation pursued by the rival claimants and various orders passed by Revenue Authorities reminds of the 'snakes and ladders' game. Revenue Authorities have voluntarily contributed to the litigation. The litigation traces its roots to the year 1997 when Darugupally Narsimha filed application for issuance of pattadar pass books.

4. Facts as averred in the affidavits filed in support of these writ petitions would disclose that Sri Dargupally Gandaiah son of Veeraiah was pattadar and in possession of land to an extent of Acs.5.39 guntas in Survey No. 75, Gopanpally village, Serilingampally mandal, Ranga Reddy district. After obtaining permission from the Gram Panchayat, he formed a layout named as 'Sri Rama Lingeshwara Nagar'. The entire lay out area is fenced and respective plot owners including petitioner firm are in possession of plots. Said Dargupally Durgaiah along with his sons and his brothers' sons executed registered General Power of Attorney in favour of Sri B Suresh on 25.2.1985. While so, Sri Darugupally Narsimha claiming that same extent of land was purchased from Sri Dargupally Gandaiah, he also executed registered GPA in favour of very same person Sri B Suresh on 27.3.1985. It appears, said B.Suresh sold all the plots in the year 1985 and registered them in favour of respective purchasers. M/s. Manjunatha Realtors Private Limited (16th respondent in WP Nos. 28473 and 28475 of 2019) claimed to have purchased 30 plots from individual plot owners. M/s. Mahavir Builders (Petitioners in WP Nos.28473 and 28475 of 2019) claims that it has purchased 42 plots i.e., 30 plots from M/s. Manjunatha Realtors and 12 plots from others.

5. In the affidavits, petitioner firm narrates the events unfolded from 1997 on claims for issuance of pattadar pass books, mutation by successors of the original pattadars and so on. Petitioner firm alleges that suppressing the fact of execution of GPA in favour of Sri B Suresh, authorizing him to sell the plots, Sri G Narasimha applied for mutation of his name in the revenue

records as if it continued to be in his possession and enjoyment as agricultural land. The said request was rejected. While so, children of Sri Gandaiah have applied for succession and mutation of their names and on same day of submission of application, Tahsildar passed orders granting succession, without following due process and without verifying the records. Sri Narasimha and his sons claimed to have sold the land to respondents 5 to 9 by way of registered sale deed in the year 1998 and in turn, respondents 5 to 9 made application for amendment and mutation of their names in the revenue records. The said application was dismissed on 15.5.2006 on the ground that respondents 5 to 9 failed to prove how Sri Narasimha and his sons acquired title to the land. Matter went before the Revenue Divisional Officer, who has remanded it to Tahsildar for consideration of the issue afresh. Challenging the said order, respondents 10 to 12 and 14 preferred revision before the Joint Collector. The Joint Collector affirmed the order of the Revenue Divisional Officer. The said order was challenged in W P No. 24988 of 2008.

6. While so, on 6.9.2008, Tahsildar issued notices and passed orders on 9.9.2011 holding that as the land stood converted for non agricultural purposes, provisions of ROR Act are not attracted. The said order was challenged by respondents 5 to 9 before the Revenue Divisional Officer.

7. By order dated 23.6.2012, Revenue Divisional Officer set aside the order of Tahsildar and remanded the matter to pass orders upon issuing notices to the concerned parties. On such remand, Tahsildar hurriedly passed orders on 13.7.2012 holding

that respondents 5 to 9 are holding title and granting mutation in their favour. Respondents 16 and 10 to 12 preferred two separate appeals before the Revenue Divisional Officer. On 1.7.2017 the Revenue Divisional Officer passed final orders setting aside the order of Tahsildar holding that matter involves serious disputes on title to the subject property and possession, which cannot be decided by the revenue authorities and also that the matter is subjudice before civil court. Respondents 5 to 9 preferred revision before the Joint Collector challenging the decision dated 1.7.2017. Petitioner firm filed application before the Joint Collector to keep pattadar and possessory column as 'blank'. While so, respondents 10 to 12 filed W P Nos. 2805 and 4719 of 2019 praying to direct respondent authorities to delete names of respondents 5 to 9 and insert their names over the land to an extent of Ac.5.39. This Court granted interim orders. It appears counters are filed and writ petitions are pending consideration of this Court. While so, on 19.11.2019 the Joint Collector passed orders setting aside orders of the Revenue Divisional Officer and remanded matter for denova enquiry. The present three writ petitions are filed challenging the orders dated 19.11.2019 raising several grounds. (W P Nos. 28473 and 28475 of 2019 by Mahavir Builders and W P No. 27718 of 2019 by Sri Darugupally Shankaraiah and Darugupally Narasimha).

8. In view of the orders that are proposed to be passed in these writ petitions, suffice to note briefly the challenge against the orders. It is contended that the Joint Collector holds that the revision is partly allowed and remands for denova enquiry, however, to what extent revision is allowed is not specified and

when he remands it to the Revenue Divisional Officer for denovo enquiry, question of partly setting aside the order does not arise. As land stood converted for non agricultural purposes, the revenue authorities have no jurisdiction to consider the claims under the Telangana Rights in Land and Pattadar Pass Books Act, 1971. It is further contended that there was no cohesion between the facts and order of primary authority and appellate authority and they ignored the earlier orders of Joint Collector dated 6.9.2008.

9. Though learned counsel for respondents 5 and 6 also made several submissions, he is satisfied if the order of the Joint Collector remanding the matter to the Revenue Divisional Officer for consideration is set aside and matter is remitted for consideration of issue afresh. He also fairly submits that to what extent the order of Revenue Divisional Officer was partly set aside is not clear.

10. From the reading of the revisional authority order, it is seen that he extracted the written arguments filed on behalf of revision petitioners, then extracted written arguments filed on behalf of respondent no.8, then extracted written arguments of petitioner herein and proceeded to decide the issue. There is no discussion on respective submissions urged by the parties or the objections filed by other respondents before him. He observed that two different stands are taken by Tahsildar and Revenue Divisional Officer on the status of land and discrepancies were not answered and remands matter to the appellate authority. It is interesting to extract the operative portion of the order which reads:

> "In view of the above findings and merits of the case, Appellate Authority SGDC & RDO, Chevella Division order dt 1.7.2017 in file NOs. C/4589/2012 and C/109/2013 are partly set aside and case is again remanded back to RDO, Rajendranagar Division for denovo afresh enquiry duly conducting the spot inspection and assess the nature of the land and verify whether there are serious disputes pending on subject lands with any direction/ orders of civil Courts and take appropriate action as contemplated under Telangana Rights in Land and Pattedar Pass Books Act, 1971 and Rules, 1989."

11. Above this paragraph, he only recorded the issue as to the discrepancy in both orders. There is no discussion on why he was remanding the matter and on what aspect the matter is remanded for consideration by lower authority. While he orders for conducting denovo enquiry he holds *'partly set aside the orders'*. What is meant by partly setting aside the orders, is not explained.

12. The quasi judicial authority is required to assign detailed reasons in support of its decision and be clear what order it intend to pass. The order under challenge does not meet the parameters of a quasi-judicial decision. In the normal circumstances the revisional authority order is liable to be set aside and matter ought to be relegated to him for consideration of the issue afresh.

13. However, matter does not rest here. It is seen that even the order of the appellate authority is not sustainable on several parameters. He holds that there are certain disputes of title and possession which cannot be decided by quasi judicial authority, more so, when matters are subjudice before the civil Court. He records that O S Nos. 1471 to 1478 of 2009 on the file of the III Addl Jr Civil Judge, R R District and O S No. 316 of 2009 before the V Addl. District Judge, Ranga Reddy are pending and holds that he would not find any valid reason to pass orders in the

said state of affairs except to advise the parties to seek remedy before the competent civil Court and accordingly disposed of the appeals. In other words, he would hold that as civil litigation is pending, he should not deal with the matter. As asserted by the learned counsel for petitioner and not denied by the learned counsel for respondents, the suits mentioned in the order of appellate authority are not pending even by the time a decision was made by appellate authority. Further, it appears, this order of Revenue Divisional Officer also was without prior notice and opportunity to the affected parties. On scanning through the order, it is seen that there is no mention about institution of suits and straight away in the operative portion of the order, he refers to suits. Thus the order of Revenue Divisional Officer is also not sustainable. It is contended that even said order of Tahsildar was not with prior notice and opportunity. These are the aspects appellate authority was required to consider and deal with them, before taking a decision.

14. In view thereof, *per se* remanding the matter by the Joint Collector to the Revenue Divisional Officer for consideration of the appeals afresh cannot be faulted. However, as this order is also not clear about what portion of the order of the Revenue Divisional Officer is set aside and the serious infirmities noticed above with reference to the orders passed by the Revenue Divisional Officer, I deem it necessary to clarify that the Revenue Divisional Officer has to conduct the appeal proceedings denovo in all respects without regard to his earlier decision. He shall afford personal hearing to all parties, record their submissions, assign reasons in support of the decision and pass orders. The entire

exercise shall be completed in eight weeks from the date of receipt of copy of this order. It is made clear that there is no expression of opinion on merits. what is considered is only on how matters are dealt with by appellate authority and revisional authority.

15. The Writ Petitions are accordingly allowed and matter is remanded to the Revenue Divisional Officer for consideration of the issue denovo. Miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

DATE: 24-12-2019
TVK

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