HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.33515 of 2018

ORDER:

This writ petition is filed seeking *Mandamus* to declare the action of the respondent No.1 in issuing impugned order vide Proceedings in Appeal No.F2/1177/2017 dt.03.08.2018 and also consequential Notice No.B/696/2016 dt.31.08.2018 issued by respondent No.2 calling for objections for implementing the impugned orders passed by respondent No.1 vide Proceedings in Appeal No.F2/1177/2017 dt.03.08.2018 in favour of respondent Nos.3 and 4 in respect of land in Sy.No.624 admeasuring Ac.4-27 gts situated at Cheekatimamidi Village of Bommalaramaram Mandal, Yadadri-Bhuvanagiri District, without issuing any notice to the petitioners and without giving an opportunity to represent and the same is illegal, arbitrary and also against the provisions of A.P. Rights in Land and Pattadar Pass Book Act, 1971 (for brevity "the ROR Act") and consequently set aside the said orders.

2. Heard learned counsel for the petitioners; learned Government Pleader for Revenue appearing for respondent Nos.1 and 2; and Sri B. Vijay Kumar, learned counsel for respondent Nos.3 and 4. None appeared for respondent No.5.

3. The facts on record would disclose that, one Budida Sathamma, w/o. Rama Goud, was the owner and possessor of an extent of Acs.6.27 gts. in Sy.No.624, situated at Cheekatimamidi Village of Bommalaramaram Mandal, Yadadri-Bhuvanagiri District. Out of the said extent, petitioner No.1 purchased Ac.1.20 gts, the father of petitioner No.2 purchased Acs.3.00 gts. and petitioner No.3 purchased Ac.1.20 gts, all by way of Sada Sale Deeds dt.09.03.2000. All the petitioners applied for regularization of the said Sada Sale Deeds. The Mandal Revenue Officer vide proceedings No.2706/2006, dt.28.11.2006 granted regularization and 13-B Certificates were also issued. While that being so, from B. Sathamma, the vendors of respondent Nos.3 and 4 claimed to have purchased Acs.4.27 gts. in the above survey number and they inturn sold the said extent of land to respondent Nos.3 and 4 in the year 2012. The above sale transactions were in the form of registered sale deeds. In the year 2017, respondent Nos.3 and 4 filed a revision before the Joint Collector, Yadadri-Bhuvanagiri District, challenging 13-B Certificates issued by the Tahsildar in the year 2006. The Joint Collector allowed the said revision vide impugned order dt.03.08.2018 and ordered for cancellation of 13-B Certificates issued in favour of the petitioners and further directed the Tahsildar, Bommalaramaram, to take necessary action for grant of mutation by duly following the Rules.

Challenging the said order dt.03.08.2018 passed by the Joint Collector, the petitioners have filed the present writ petition.

4. Learned counsel for the petitioners primarily made two submissions on the illegality of the order passed by the Joint Collector, *firstly*; there is an inordinate delay in entertaining the revision; and *secondly*; though against the order dt.28.11.2006 revision was filed in the year 2017, the said revision was decided without affording an opportunity of hearing to the petitioners. Therefore, on these two counts, the impugned order *per se* is illegal and liable to be vitiated. Learned counsel would further submit that once the Sada Sale Deed is regularized and 13-B Certificate is issued, the original pattadar has no right and title to the property and, therefore, he cannot undertake any sale transaction, whereas the purchase made by the vendor of respondent Nos.3 and 4 was after 13-B Certificate was issued and, therefore, the said sale is not valid in law and all these facts were not properly appreciated by the Joint Collector while passing the impugned order.

5. Learned counsel for respondent Nos.3 and 4 submits that as the sale was made by Sathamma, the original pattadar, by way of a registered sale deed, the same is to be given weightage compared to regularization of sale transactions. He would further submit that even though the alleged Sale Certificate was issued in the year 2006, the

Revenue records reflected the name of Sathamma and her family members. Having verified the Revenue records, respondent Nos.3 and 4 purchased the said land, bonafidely believing that the vendor has valid title over the property and, therefore, if the said sale is held not valid, grave prejudice would be caused to respondent Nos.3 and 4.

6. The basic facts are not in dispute. By the time Sathamma alleged to have sold the land to the vendor of respondent Nos.3 and 4, the Sada Sale transaction earlier made by Sathamma to the petitioners was regularized and 13-B Certificate was also issued on 28.11.2006. Once the certificate was issued in favour of the petitioners, the original pattadar has no right or title to the property. Therefore, the sale transactions made after 2006 by the persons unconcerned to the property are not valid in law and no right would accrue in favour of respondent Nos.3 and 4 as no title was passed on to their vendor.

7. The impugned order is also vitiated on two counts, as contended by the learned counsel for the petitioners. *Firstly*, the revision was entertained after 11 long years without assigning any reasons. Though no time limit is specified, revision under Section 9 of the ROR Act has to be availed within a reasonable time. What is a reasonable time, depends on a given facts of the case.

8. In the instant case, merely placing reliance on 2012 sale transaction, respondent Nos.3 and 4 approached the revisional authority challenging the regularization order issued in the year 2006 and, therefore, the revision was barred by limitation. Further, as observed by the Joint Collector, after 2003-04, the names of the petitioners appeared in the Revenue records. Though it may not have been continuously reflected in the Revenue records, the fact remains that the petitioners names are shown in the Revenue records. *Secondly*, no notice was served on the petitioners, though they are natives of the said village. The Joint Collector observed that the petitioners were not residing in the village and, therefore, the Tahsildar ordered for affixing of the notices in the Gram Panchayat and, therefore, he deems it as service of notice.

9. Further, the order of the Tahsildar was passed in the year 2006 and the revision was preferred in 2017 i.e., after 11 years and the Joint Collector ought to have ascertained and ensured that the notice is served on the petitioners, moreso, when he was inclined to allow the claim made by the revision petitioners. Apparently, as notice was not served on the petitioners, thereby affecting the rights of the petitioners, the impugned order is unsustainable. Further, the Joint Collector proceeded on the assumption that even though the sale transactions by which the petitioners claim to have

purchased the property subsequently, since the said sale transactions are registered, they must be given more weightage when compared to the Sada Sale transactions, which were regularized. This observation of the Joint Collector is contrary to the Statutory requirement prescribed in the ROR Act. Once the sale transaction is regularized and 13-B Certificate is issued, that attains finality, unless the same is assailed before the Appellate Authority, Revisional Authority or competent Court.

10. For the aforesaid reasons, the impugned order dt.03.08.2018 passed by respondent No.1 and the consequential notice dt.31.08.2018 issued by respondent No.2 are unsustainable and the same are liable to be set aside.

11. Accordingly, the writ petition is allowed, setting aside the impugned order dt.03.08.2018 passed by respondent No.1 and the consequential notice dt.31.08.2018 issued by respondent No.2. No order as to costs.

12. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE P. NAVEEN RAO

28.11.2019.
Msr

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