

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.872 of 2016

ORDER:

This Revision is filed under Section 91 of the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950 (for short “the Act”) by the petitioners assailing the order dt.10-12-2015 in Case No.F2/7052/2010 of the Joint Collector-II, Ranga Reddy District setting aside the order dt.24-05-2004 in file No.B/519/2004 of the Mandal Revenue Officer, Shamshabad Mandal.

2. One Syed Ahmed Mohammed Ahssan Abedi was the pattedar of Ac.14.38 gts in Sy.No.100, Ac.21.00 gts in Sy.No.154 and Ac.18.01 gts in Sy.No.155 along with other lands at Kothwalguda village.

3. One Yadgiri Mallaiah, s/o.Balaiah was recorded as Protected Tenant over the said land.

4. Vide proceedings in case No.LRW/143/75 dt.15-05-1975, the Additional Revenue Divisional Officer, West granted certificate of Ownership under Section 38-E of the Act to Yadgiri Mallaiah over an extent of Ac.20.20 gts in Sy.No.154, Ac.16.01 gts in Sy.No.155 and Ac.2.00 gts in Sy.No.100 comprising total of Ac.38.21 gts.

5. Petitioners contend that they had purchased Ac.16.01 gts in Sy.No.155 under an agreement of sale dt.02-03-1965 from the pattedar.

6. The two widows of Yadgiri Mallaiah by name Kistamma and Sayamma filed a petition on 23-03-2004 stating that they have protected tenancy rights which devolved on them from their late husband Yadgiri Mallaiah for Ac.18.01 gts in Sy.No.155 of Kothwalguda village; and they wish to surrender their protected tenancy rights in favour of the petitioners for an extent of Ac.12.00 gts in Sy.No.155 of Kothwalguda village.

7. The Mandal Revenue Officer, Shamshabad Mandal exercised power under Section 19 of the Act, accepted the surrender and directed deletion of the name of the protected tenant over an extent of Ac.12.00 gts in Sy.No.155.

8. Respondent Nos.1 to 8 preferred an appeal under Section 90 of the Act before the Joint Collector-II Ranga Reddy District. The said appeal was numbered as Case No.F2/7052/2010.

9. The 12th respondent herein got impleaded in the said appeal as 13th respondent.

10. The impleaded party is claiming under a registered Will of Kistamma, w/o. Yadgiri Mallaiah and also as a registered GPA to an extent of Ac.16.01 gts in Sy.No.155 of Kothwalguda village.

11. By order dt.10-12-2015, the Joint Collector-II stated that once 38-E certificate is issued for the lands to the original protected tenant, it is deemed that there is no protected tenancy existing over the land and there is no question of surrender of tenancy under Section 19 of

the Act. So she set aside the order dt.24-05-2004 of the Mandal Revenue Officer, Shamshabad also holding that termination of tenancy under Section 19 of the Act can be done only by the tenant in favour of land holder only and not to a third party. She also observed that the pattedar has no right or title to make transaction unless and until pattedar got permission under Sections 47 and 48 of the Act from the competent authority and the alienation from the pattedar to the petitioners through an agreement of sale dt.02-03-1965, in the absence of such permission, is null and void. She also directed that the Revenue Records be corrected and pass books and title deeds issued to the petitioners be cancelled.

12. Assailing the same, this Revision is filed.

13. Learned counsel for petitioners contended that the Joint Collector-II while passing the order dt.10-12-2015 could not have directed correction of Revenue Records and cancellation of pass books and title deeds and it is beyond the jurisdiction of the Joint Collector-II to do so. He also contended that petitioners are in possession of the property and civil litigation is pending between the parties.

14. Learned counsel for 12th respondent refuted the same and denied the possession of petitioners over the subject land. He also contended that the findings recorded by the Joint Collector-II are correct and did not warrant any interference by this Court under Section 91 of the Act.

15. From the facts narrated above, it is clear that 38-E certificate in respect of the subject land had been issued on 15-05-1975 to Yadgiri Mallaiah, S/o.Balaiah during life time under Section 38-E of the Act. Therefore, he became owner of the land. Thereafter there is no protected tenancy over it. Consequently, the application by the widows of Yadgiri Mallaiah under Section 19 of the Act was rightly held by the Joint Collector-II as not maintainable, particularly when the surrender of tenancy also is not to the land holders but to a third party like the petitioners through agreement of sale dt.02-03-1965 without permission under Sections 47 and 48 of the Act which is null and void. Therefore, the Joint Collector-II has rightly set aside the order dt.24-05-2004 of the Mandal Revenue Officer, Shamshabad Mandal. Once the said order has been set aside and 38-E certificate has been upheld, the Revenue Records are required to be corrected.

16. Therefore, I find no illegality in the direction to the Tahsildar, Shamshabad of the Joint Collector-II, while cancelling the pass books and title deeds issued to the petitioners, that the Revenue Records be corrected.

17. Therefore, the Revision fails and it is accordingly dismissed.
No costs.

18. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 03-01-2019
Vsv