

**THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY
AND
THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER**

**WRIT APPEAL Nos.424, 425, 513, 516, 535, 542 of 2020 and
107 & 108 of 2021**

COMMON JUDGMENT: (Per Hon'ble Dr. Justice Shameem Akther)

Since the subject matter of all these writ appeals is the land in the same village, i.e., Sikanderguda Village of erstwhile Hyderabad (West) Taluq of Hyderabad District (which is presently in Gandipet Mandal of Ranga Reddy District) and since common questions of law and facts arise for consideration in all these writ appeals, all these writ appeals are taken up together and are being disposed of by this common judgment.

2. The challenge in all these writ appeals is to the common order, dated 16.09.2020, passed in W.P.Nos.21415 and 21416 of 2019 by a learned single Judge of this Court.

3. The appellants in W.A.No.424 and 425 of 2020 are State of Telangana represented by its Principal Secretary to Government, Revenue Department, and five others, who are respondent Nos.1 to 5 & 7 in W.P.Nos.21415 of 2019 and respondent Nos.1 to 6 & 132 in W.P.Nos.21416 of 2019 respectively. The appellants in W.A.Nos.513 and 516 of 2020, being represented by their GPA Holder, M/s.Vajini Infra, are respondent Nos.8 to 132 in W.P.No.21415 of 2019 and respondent Nos.7 to 131 in W.P.No.21416 of 2019 respectively. The appellants in W.A.Nos.535 and 542 of 2020 are five individuals, who claim to be legal heirs of late Paigah Vicar-ul-

Umra. They filed I.A.No.7 of 2020 in W.P.No.21415 of 2019 and I.A.No.6 of 2020 in W.P.No.21416 of 2019, seeking their impleadment in the subject Writ Petitions. The learned single Judge of this Court dismissed both the applications. Aggrieved by the same, they filed W.A.Nos.535 and 542 of 2020 along with I.A.No.1 of 2020 in both the appeals seeking leave to file Writ Appeals against the impugned common order, dated 16.09.2020 and the said interlocutory applications were allowed by this Court, vide separate order. The appellants in W.A.Nos.107 and 108 of 2021 are third parties. They claim to be legal heirs of late Nawab Sir Vicar-UI-Umra. They filed these two appeals along with I.A.No.1 of 2021 in both the appeals seeking leave to file the appeals and both the I.As were allowed by this Court vide order, dated 25.03.2021. For clarity, the parties will be hereinafter referred to, as arrayed in the subject W.P.Nos.21415 and 21416 of 2020.

4. Heard the learned senior counsel and learned counsel for the respective parties and perused the record.

5. The subject matter in both the writ petitions is with regard to issuance of new E-Pattadar Pass Books replacing the old pattadar pass books and title deeds, given to the petitioners by the Tahsildar/Mandal Revenue Officer, Gandipet Revenue Mandal, Gandipet, Ranga Reddy District, in respect of Survey Nos.5 to 9 and 17 (in Writ Petition No.21415 of 2019) and Survey Nos.1 to 4 and 18 (in Writ Petition No.21416 of 2019) of Sikanderguda Village of erstwhile Hyderabad (West) Taluq of Hyderabad District, which is presently in Gandipet

Mandal of Ranga Reddy District.

6. Several questions have been raised by all the parties to the proceedings, wherein, they have disputed the title of one another over the subject agricultural land covered by the writ petitions, situated at Sikanderguda Village, Gandipet Mandal, Ranga Reddy District. Some of the parties have also disputed the findings recorded by 'Nazim-e-Atiyat' Court. They have also disputed the issuance of Munthakab No.5, its veracity and findings and conclusions reached therein. There is also serious dispute from the implead appellants and also by the Government with regard to ownership and possession of the petitioners in both the subject writ petitions over the subject land. The preliminary decree, dated 10.08.1979, passed in O.S.No.47 of 1965 by the learned Additional Chief Judge, City Civil Court at Hyderabad, is also pressed into service to demonstrate entitlement of some of the respondents over the land in dispute. Disputes are also raised with regard to issuance of G.O.Ms.No.225, dated 12.02.1964, by virtue of which, the subject property was taken over by the Government and kept under the custody of Court of Wards from the date of release. The veracity of proceedings in CCLA's Ref.No.NA2/208/2005 (Case No.NA2/208/2012) issued by CCLA proposing to consider release of property situated in Sy.Nos.1 to 19 of Sikanderguda Village, Gandipet Mandal, Ranga Reddy District of extent of Ac.187.27 guntas is also under challenge by some of the respondents. Several other contentions have also been raised in respect of subject land

and also other land.

7. Here, it is apt to state that judicial review under Article 226 of the Constitution of India is directed, not against the decision, but the decision-making process. Administrative decisions are subject to judicial review under Article 226 of the Constitution of India, only on grounds of perversity, patent illegality, irrationality, want of power to take the decision and procedural irregularity. Except on these grounds, administrative decisions cannot be interfered with. A decision is vitiated by irrationality, if the decision is so outrageous, that it is in defiance of all logic; when no person acting reasonably could possibly have taken such decision. It is also well settled that disputed questions of title cannot be gone into by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India and a regular suit is the appropriate remedy for settlement of disputes relating to property rights between the parties. The remedy under Article 226 shall not be available, except there is violation of some statutory duty on the part of a statutory authority, and in such a case, this Court will issue appropriate directions to the authority concerned. In any event, constitutional jurisdiction of High Court cannot be exercised for deciding disputes for which, remedies under civil or criminal are available.

8. In the instant case, the questions asserting title and possession over the subject property covered by the writ petitions by the parties to the litigation excluding one another requires to be determined by the competent authority/civil or revenue court, as the case may be. While dealing with the contentions raised before

the learned single Judge in the subject Writ Petitions, the learned single Judge was pleased to record the findings at para 110 and 111 of the impugned common order, dated 16.09.2020, which reads as follows:

“110. Therefore, I hold that the proposed parties have no right, title or interest in the lands in Sikanderguda village and they are not entitled to be impleaded in these Writ Petitions.

111. Consequently, I.A.No.7 of 2020 in W.P.No.21415 of 2019 and I.A.No.6 of 2020 in W.P.No.21416 of 2019, are dismissed.”

9. The above findings of the learned single Judge resulted in filing of the subject Writ Appeals before this Court by the aggrieved persons. That apart, large number of parties got affected by the impugned common order. Some of them have sought leave of this Court and got impleaded.

10. As indicated above, the questions that are raised by the appellants, i.e., determining the right, title and interest of the parties over the subject agricultural land and other properties cannot be decided in a writ petition filed under Article 226 of Constitution of India. In the given facts and circumstances of the case, it is pertinent to state that the unofficial respondents (writ petitioners) in all these appeals filed the subject writ petitions contending that their family members are in possession of the subject property since more than 100 years; that several records show the names of respondents/writ petitioners and their ancestors as possessors of the subject land; that their ancestors were issued ORCs after due enquiry; that subsequently, they were also issued

Record of Right proceedings, Pattadar Pass Books and Title Deeds also also updated form 1B (ROR 1B); that in view of change of regulations, the Tahsildar concerned is bound to issue E-Pass Books in favour of the respondents/writ petitioners, since issuance of E-Pass Books would not alter or affect the right, title and interest over the subject property, which issue is *subjudice* in O.S.No.47 of 1965 on the file of the Additional Chief Judge, City Civil Court at Hyderabad. There is record to establish the above material facts. Further, issuance of E-pattadar pass books in favour of the unofficial respondents/writ petitioners would not amount to conferring or asserting title and lawful possession of the respondents/writ petitioners over the subject property by the Government, so also it would not have any bearing over the pending suit in O.S.No.47 of 1965 before the Additional Chief Judge, City Civil Court, Hyderabad. In the given circumstances of the case, it is left open to the parties to the litigation to agitate their grievances before appropriate authority, as indicated above, by initiating proceedings, in accordance with law.

11. Under these circumstances, the 'conclusions (a) and (b)' reached by the learned single Judge in para 112 of the impugned common order, dated 16.09.2020, i.e., "allowing both the subject Writ Petitions with costs, and directing the official respondents therein to issue E-pattadar passbooks to the petitioners in W.P.No.21415 of 2019 for the lands admeasuring Ac.13.21 guntas in Sy.Nos.5 to 8 and 17 of Sikanderguda Village Gandipet Mandal, Ranga Reddy District and to the petitioners in W.P.No.21416 of 2019 for the lands admeasuring Ac.25.17 guntas in Sy.Nos.1 to 4

and 18 of Sikanderguda Village, Gandipet” are justified and are hereby upheld. The Tahsildar/Mandal Revenue Officer, Gandipet Revenue Mandal, Gandipet, Ranga Reddy District, is directed to issue E-pattadar pass books to the respondents/Writ Petitioners within thirty (30) days from the date of this order, since they are entitled for substitution of E-pattadar Pass Books in the place of old pattadar pass books and title deeds.

12. Further, the 'conclusion (h)' reached by the learned single Judge in para No.112 of the impugned common order, wherein, it was held that “in view of the Memos dt.26.08.2020 and 06.08.2020 filed by Sri V.Ramakrishna Reddy, counsel for respondents 6 to 132 in W.P.No.21415 of 2019 and respondents 6 to 131 in W.P.No.21416 of 2019, the Appeals in Case Nos.F1/2942/2019 and F1/2945/2019 filed by the 6th respondent before the Joint Collector, Ranga Reddy District are deemed to be withdrawn and dismissed as such; and the interim orders passed in the said Appeals by the Joint Collector, Ranga Reddy District suspending the Occupancy Rights Certificates granted to the petitioners/their predecessors in Proceedings A1/1447/1975 dt.08.05.1978 and A1/1448/1975, dt.08.05.1978 are declared null and void and are set aside” is also justified and is hereby upheld.

13. All other conclusions, i.e., 'conclusions (c) to (g)' reached by the learned single Judge in para No.112 of the impugned common order, dated 16.09.2020, i.e.,

“(c) I.A.No.2 of 2019 in W.P.No.21415 of 2019 and I.A.No.2 of 2019 in W.P.No.21416 of 2019 are dismissed;

- (d) I.A.Nos.1 to 5 of 2020 in both Writ Petitions are allowed;
- (e) I.A.No.6 of 2020 in W.P.No.21415 of 2019 and I.A.No.3 of 2019 in W.P.No.21416 of 2019 are allowed;
- (f) I.A.No.7 of 2020 in W.P.No.21415 of 2019 and I.A.No.6 of 2020 in W.P.No.21416 of 2019 are dismissed;
- (g) the Proceedings in CCLA's Ref.No.NA2/208/2005 (Case No.NA2/208/2012) issued by CCLA proposing to consider release of property situated in Sy.Nos.1 to 19 of Sikanderguda Village, Gandipet Mandal, Ranga Reddy District of extent Ac.187.27 guntas is held to be wholly without jurisdiction and the same is quashed."

are hereby set aside, particularly in view of the scope of writ petition discussed in para No.7. The aggrieved parties are entitled to work out the remedies before competent authority, in accordance with law.

14. With the above observations/directions, these Writ Appeals are disposed of. No costs.

Miscellaneous petitions, if any, pending in all these Writ Appeals, stand closed.

A.RAJASHEKER REDDY, J

Dr. SHAMEEM AKTHER, J

28th January, 2022
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