THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

WRIT PETITION No.14657 of 2013

ORDER:

The present writ petition is filed assailing the orders of the Joint Collector, Nalgonda, passed in File No.F2/761/2013, dated 30.04.2013, whereby the revision filed by the fourth and fifth respondents herein is allowed.

2) The brief facts of the case are that the writ petitioners have purchased an area admeasuring Acs.10.00 gts. in survey Nos.184, 185 and 747 situated at Pillalamarri (V), Suryapet Mandal, Nalgonda District, through two registered sale deeds dated 27.06.2011 and 21.07.2011. The vendors of the writ petitioners, in turn, have purchased the said land from the original pattadar Smt.S.Kousalyamma through registered sale deed Nos.1630/86 on 23.06.1986 and No.1631/86 dated 26.06.1986. After the said purchase by the petitioners, they submitted a representation to the District Collector on 10.01.2012 seeking mutation and the District Collector in turn had directed the third respondent i.e., The Tahsildar to enquire into the matter and take necessary action as per the provisions of the Andhra Pradesh Rights in Land and Pattadar Passbooks Act, 1973 (for short 'ROR Act'). Thereafter, the third respondent, in turn, conducted an enquiry under the ROR Act and in the said enquiry the fourth and fifth respondents have filed their objections. The third respondent, after taking into consideration the objections filed by the fourth and fifth respondents, had passed order dated 29.09.2012 directing that the names of the petitioners be incorporated in the revenue records and pattadar passbooks and title deeds also be issued, and the

pattadar passbooks and title deeds were issued accordingly and the names of the petitioners were mutated in the revenue records. Aggrieved by the orders of the Tahsildar, the fourth and fifth respondents have preferred an appeal before the second respondent i.e. The Revenue Divisional Officer, but the said appeal was dismissed on 07.01.2013 confirming the orders of the third respondent. Thereafter, the fourth and fifth respondents have preferred a revision under Section 9 of the ROR Act before the first respondent i.e. the Joint Collector, Nalgonda District, who vide order, dated 30.04.2013, has passed the impugned order which is under challenge. Aggrieved by the order of the Joint Collector in File No.F2/761/2013, dated 30.04.2013, the writ petitioners have filed the present writ petition assailing the correctness of the order of the Joint Collector on various grounds.

3) Sri Vedula Srinivas, the learned counsel for the petitioners, has assailed the correctness of the order passed by the Joint Collector on the ground that without there being any valid reason, the Joint Collector had reversed the concurrent findings given by the primary authority as well as the appellate authority and the finding recorded by the first respondent that no notice was served on the fourth and fifth respondents prior to passing of the orders by the primary authority is not correct, inasmuch both the fourth and fifth respondents have filed their objections and contested the claim. Moreover they have filed a writ petition before this Hon'ble Court vide W.P.No.4814 of 2012 and this Hon'ble High Court vide orders, dated 19.06.2012, has directed the third respondent to consider their revision and accordingly the third

respondent has taken into consideration, the objections and representations filed by the fourth and fifth respondents and passed orders. That the fourth and fifth respondents having participated in the enquiry and filed their objections, they cannot turn around and say that they have not been issued any notice as contemplated under Section 5 (3) of the ROR Act.

4) Per contra, Sri E.Madan Mohan Rao, the learned counsel appearing for the fourth and fifth respondents, has vehemently contended that the original vendor Smt.S.Kousalyamma, through whom the petitioners or their predecessor-in-title are claiming title, had no title to the property in question and as such the registered sale deeds, if any, executed by the said person do not confer any title to the vendee. It is the case of the fourth and fifth respondents that when the original vendor does not have any title to the property, she cannot pass-on a better title than what she has. That civil suits were filed and pending between the parties and the vendor of the petitioners herein could not succeed in the said suit, the First Appeal filed was dismissed and Second Appeal was filed and the is pending before this Hon'ble High Court. He further contends that, in fact, the properties in question are the joint family properties of fourth and fifth respondents and the grand mother of the fourth and fifth respondents claiming that the property exclusively belongs to her, had filed a civil suit, which was numbered as O.S.No.12/1979 before the District Munisiff Court, Suryapet, but the same was dismissed vide judgment and decree, dated 27.09.1988. That the names of the fourth and fifth respondents were mutated in the revenue records and they were

issued pattadar passbooks after the dismissal of the above suit. That Smt.Kousalyamma, who did not have any right or title to the property in question, during the pendency of the suit filed by her, has alienated the property in favour of the predecessor-in-interest of the petitioners herein and the petitioners have purchased the same and basing on these sale deeds they have applied for mutation in their names and the primary authority without any notice to fourth and fifth respondents has issued the pattadar passbooks and title deeds. Aggrieved by the same, fourth and fifth respondents have filed an appeal which was dismissed and they have preferred a revision before the Joint Collector, who after appreciating the facts in correct perspective, has allowed the revision filed by them. Thus, the learned counsel contends that there is no illegality or perversity in the impugned order passed by the Joint Collector and the writ petition is liable to be dismissed.

5) Heard Sri Vedula Srinivas, the learned counsel appearing on behalf of the petitioners, the learned Government Pleader for Revenue for respondents 1 to 3, and Sri E.Madan Mohan Rao, the learned counsel appearing for respondents 4 and 5. Perused the record.

6) As seen from the record, the predecessor-in-interest of the petitioners i.e. Smt.Singirikonda Kousalyamma filed a suit for permanent injunction restraining the defendants therein i.e. Singirikonda Surender and Singirikonda Ravinder, who are the fourth and fifth respondents herein, and the same was numbered as O.S.No.12 of 1979 on the file of the District Munsif, Suryapet. In the said suit, Smt.Kousalyamma took a stand that the subject

matter of the land was purchased by her through a registered sale deed from out of her Stridhan. That the trial Court vide judgment, dated 27.09.1988, dismissed the suit and while dismissing the said suit, the learned District Munsif has made certain observations, which read as under:

> " .... However, in cross-examination she admitted that her father died when she was four year old, that her mother was not doing any work, that her parents had no use of their own, that she had five elder brothers all of whom died and that her eldest brother performed her marriage at the age of 11 years. She further deposed that her brother at the time of marriage declared that he would pay her Rs:116/- as the marriage gift but he could not pay even that amount. .... though at first in her cross-examination she had stated that it was not true that the landed properties were partitioned or that about seven or eight years back the joint family had separated their business, in her further cross-examination she conceded that the sale consideration for the purchase of the suit lands was paid after withdrawing the money from the joint family business and it was debited in the books of account of the said business. She also admitted that in partition the suit land was given half and half to both her sons (D-1 and Prasad Rao) and that the said partition took place fifteen or sixteen years ago. She also admitted that at the partition she had get for herself gold jewellery and cash of Rs:30,000/-. The first defendant in his evidence as DW-1 also deposed that the suit land was not the exclusive property of the plaintiff but it was purchased from joint family funds and that the suit property was shown and purchased from the said funds in the income tax accounts. He also asserted that the plaintiff did not pay consideration for the purchase of the suit property and that she had no separate money to purchase the same. .... The prima facie title of the suit property, therefore, vests in the joint family till it existed, and after partition, it was with D-1 and his brother."

7) The learned District Munsiff further made the following observations:

> "… The conduct of the witness, who is no other than the plaintiff herself, shows that she was almost giving up her own case in the plaint. Therefore, the plaintiff is bound by her own statements made in the course of her cross-examination after she was recalled. Accepting her evidence and also acting upon the oral and documentary evidence on record as discussed above I have no other conclusion to arrive at except that the suit property was purchased in the name of the plaintiff nominally from the joint family funds and that there was a partition between the members of the joint family at which the suit lands of more than 12 acres fell to the share of D-1 and Prasadarao and that the joint family was in possession cultivation of the suit properties till it existed and after partition D-1 with the assistance of D-2 has been in cultivation and enjoyment of the suit lands for himself as well as on behalf of his brother, prasada Rao. Prasada Rao himself has not entered the box and has not claimed that he wants his half share in the suit properties delivered to him separately. As and when such claim is made, D-1 appears to be having no objection to give it to him as can be seen from the evidence of both D-1 and D-2. They are not claiming the entire extent of 12 acres for themselves and they categorically stated that they got only half share therein and that their half share is on the western side while the half share of prasada Rao is on the eastern side. However, since the plaintiff has failed to prove her possession and enjoyment of the suit lands on the date of filing of the suit, coupled with the fact that she has got only nominal title to the suit land and the real title vested only with the joint family and after partition with D-1 and prasada Rao, the plaintiff must be held to be not entitled for the permanent injunction as prayed for. I find on the issue accordingly."

8) The findings of the trial Court in O.S.No.12/1979 have become final as no appeal was preferred either by Kousalyamma or any other person claiming through her. During the pendency of the said suit, Smt.Kousalyamma sold the property to Vempati Satyanarayana and others through a registered sale deed dated

23.06.1986 and subsequently the same was purchased by the petitioners vide registered sale deed, dated 21.07.2011. It is pertinent to note that initially, the Sri Vempati Satyanarayana, who purchased the property from Smt.Kousalyamma, had filed an application before the Mandal Revenue Officer for correction of the entries in the pahanies based on the sale deed executed by Smt.Kousalyamma, but the same was rejected by the Mandal Revenue Officer vide Lr.No.G/8902/2000, dated 15.01.2001. Aggrieved by the said order, Vempati Satyanarayana and others filed an appeal before the Revenue Divisional Officer and the said appeal was also dismissed vide Case No.D/46/2001, dated 06.04.2002. Thereafter, Vempati Satyanarayana and others filed a revision before the Joint Collector, who by order, dated 06.03.2003, has dismissed the revision in Case No.F2/JC/ROR/7/2002. These orders passed by the Mandal Revenue Officer, Revenue Divisional Officer and Joint Collector, have become final as they were not assailed in higher Forum. Thereafter, after a gap of nearly 10 years, the writ petitioners herein have filed an application before the Mandal Revenue Officer seeking mutation of their names solely on the ground that the suit for injunction filed by the fourth and fifth respondents herein was dismissed. The Mandal Revenue Officer, without taking into consideration the earlier orders passed by his predecessor-in-office in Lr.No.G/8902/2000, dated 15.01.2001, confirmed by the Revenue Divisional Officer in appeal and by the Joint Collector in revision, has mutated the names of the writ petitioners without issuing any statutory notice to the fourth and fifth respondents herein. Though the respondents have preferred an appeal before the

Revenue Divisional Officer, the same was dismissed. Against the same, they preferred a revision before the Joint Collector, who allowed the revision.

9) The predecessor-in-interest of the writ petitioners had earlier filed an application before the concerned Mandal Revenue Officer for mutation of their names based on the sale deeds executed by Smt.Kousalyamma, but the said application was rejected and the same was confirmed up to the Joint Collector level. The vendor of the writ petitioners for the reasons best known to him did not assail the correctness of the orders of the Revenue Divisional Officer or the Joint Collector, but sold the subject land to the petitioners herein, who after dismissal of the suit for injunction filed by the fourth and fifth respondents herein, have filed another application before the Mandal Revenue Officer. As rightly pointed out by the Joint Collector, no notice was served on the fourth and fifth respondents herein and it is beyond comprehension as to how the Mandal Revenue Officer has entertained the second application for mutation made by the petitioners herein when the earlier application of the predecessor-in-interest of the petitioners was dismissed.

10) Though the learned counsel for the petitioners has vehemently argued that the principle of *res judicata* enunciated in Section 11 of the Code of Civil Procedure is not applicable to the quasi judicial authorities and as such the second application made by the petitioners is maintainable and there is no legal embargo for the Mandal Revenue Officer to entertain the same, it is to be seen that irrespective of the fact as to whether the principle of

res judicata is applicable or not, the fact remains that the Mandal Revenue Officer in the earlier round of litigation in respect of the same land had dismissed the application for mutation made by the vendor of the petitioners. Subsequently, another Mandal Revenue Officer cannot overlook the earlier orders passed by his predecessor-in-office and take a contrary view more particularly in view of the fact that the earlier orders were confirmed by the appellate as well as revisional authorities. The well established principle of law is that whenever the parties are aggrieved by any order, they have to file an appeal or revision or writ petition assailing the correctness of the said order, if they feel that such order is against them and get it set aside. In the absence of the same, their successor-in-interest cannot file another application for the very same relief, which has been rejected by the earlier authority. Merely because there is a change of Officer in the office of a particular authority, successive applications cannot be filed for the very same relief, more particularly when the earlier application was rejected, as between the parties, the matter is deemed to have been settled, unless and until the same is set aside by a superior Court, the parties are precluded from filing second application for the very same relief or for the very same cause of action. The Revenue Divisional Officer, Suryapet, in the earlier round of litigation i.e. case No.D/46/2001, dated 06.04.2002, in which the predecessors-in-interest were the appellants, the Revenue Divisional Officer has held as under:

> "In the circumstances stated above, I could not find any reasons to interfere into the orders of lower court (MRO) in effecting transfer of suit lands in favour of the respondent. The claim of the appellants regarding

title and ownership over the suit lands by virtue of registered sale deeds 1986 against the respondents is purely a civil nature and this court have no power or jurisdiction to decide this issue by assuming the role of civil court. The appellants are therefore advised to approach the competent court of law. With the above directions the appeal is disposed."

11) The said findings of the Revenue Divisional Officer were confirmed by the Joint Collector in Case No.F2/JC/ROR/7/2002, dated 06.03.2003, observing as follows:

> "The Revision petitioners herein have pleaded that the orders of Jr. Civil Judge, Suryapet, dated: 20-7-2001 passed in I.A.No. 27/2001 in O.S.No.10/2001 in favour of Respondent No.1 & 2 herein have been set aside by the Sr. Civil Judge, Suryapet in CMA No.7/2001 Dt: 21.3.2002. But the Respondents No. 1 & 2 produced a copy of orders of Hon'ble High Court, AP, Hyderabad in CRP No.1722/2002 Dt: 13.8.2002 in which the orders of the Sr. Civil Judge Suryapet are set aside and confirmed the orders of he trial court ie., Jr. Civil Judge, Suryapet in IA No.27/2002 in O.S.No.10/2001. It is seen from the copies of Pahanies produced before the lower court that the Respondents No.1 & 2 are in continuous possession over the suit land and they got this land mutated in their favour through partition of joint property.
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> In view of the above facts I do not want to interfere with the orders of lower court. Accordingly, the revision is dismissed."

12) In the present writ petition, the orders of the Joint Collector, dated 30.04.2013, in case No.F2/761/2013 are assailed by the writ petitioners. The joint Collector after taking into consideration the earlier round of litigation between the parties in respect of the same land, has allowed the revision filed by fourth and fifth respondents herein mainly on two grounds, *viz.*, that the statutory notices as contemplated under the Act and the Rules are

not followed by the Mandal Revenue Officer and also the fact that the predecessors-in-interest of the petitioners have filed an application before the Mandal Revenue Officer for mutation of their names based on the sale deed executed by Smt.Kousalyamma and the same was rejected by the Mandal Revenue Officer earlier, confirmed by the Revenue Divisional Officer in appeal as well as the Joint Collector in revision. Thereafter the vendors of the petitioners have not filed any suit for declaration of their title as observed by the Revenue Divisional Officer vide order, dated 06.04.2002, and hence the Joint Collector vide order, dated 30.04.2013, has set aside the orders of the Mandal Revenue Officer as well as the Revenue Divisional Officer.

13) The law on mutation of names under the ROR Act is a settled one. It is an admitted fact that the entries made in the pahanies are for the purpose of collection of land revenue and are fiscal in nature and the same do not confer any title or take away the rights vested in any person. Mere entry of the name of a person will not confer any title to him or take away the same. The title to property can be transferred only through the legally permissible modes established by the law. In this particular case, the findings given by the Civil Court in O.S.No.12/1975 have become final as no appeal was preferred either by Kousalyamma or any person claiming through her. Admittedly, the sale which was made in favour of the purchasers-in-interest was during the pendency of the above said suit and whether the sale made by Smt.Kousalyamma will confer any title or not on the vendees is a matter which has to be gone into by a competent civil Court in a

competent civil proceedings to be initiated by the petitioners herein. This Court is only concerned with the legality or otherwise of the orders passed by the Joint Collector in case No.F2/761/2013, dated 30.04.2013, and will not go into the disputed questions of fact. As stated above, the entries which are made in the revenue records are only for fiscal purpose and they do not confer any title to any person or take away the rights of any other person. In earlier round of litigation between the very same parties for mutation of their names, the application was rejected by the primary authority i.e. Tahsildar and the said orders were confirmed by the Revenue Divisional Officer in appeal and the Joint Collector in revision, the second application on the very same cause of action and sale deeds is not maintainable. While allowing the revision, the Joint Collector has held that no statutory notices as contemplated by the Act were served on the fourth and fifth respondents. It is well established principle of law that where a Statute or Act mandates a particular thing to be done in a particular manner, the same has to be followed scrupulously by the authorities and there cannot be any deviation of the said procedure contemplated under the law. In case, there is any deviation, the same has to be set aside, as it will infringe the rights of the affected parties.

14) In the result, the writ petition is devoid of merits and the same is dismissed accordingly. However, this order does not preclude the petitioners from filing a civil suit before a competent Civil Court for the reliefs they deem fit. It is needless to state that any observations made in this order are only for deciding and

disposing of the issue involved in this writ petition and the same shall not be construed as making any observations on the merits or demerits on the rights of the parties. Any cases pending before this Court shall be decided on the merits of its own case, uninfluenced by any observations made in this writ petition.

The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.ABHISHEK REDDY, J

Date : 10-01-2020.
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