

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

I.A.Nos.1 and 2 of 2019

in/and

Writ Appeal No.837 of 2019

Date : 23.01.2020

Between:

R.Bheem Reddy

...Appellant

And

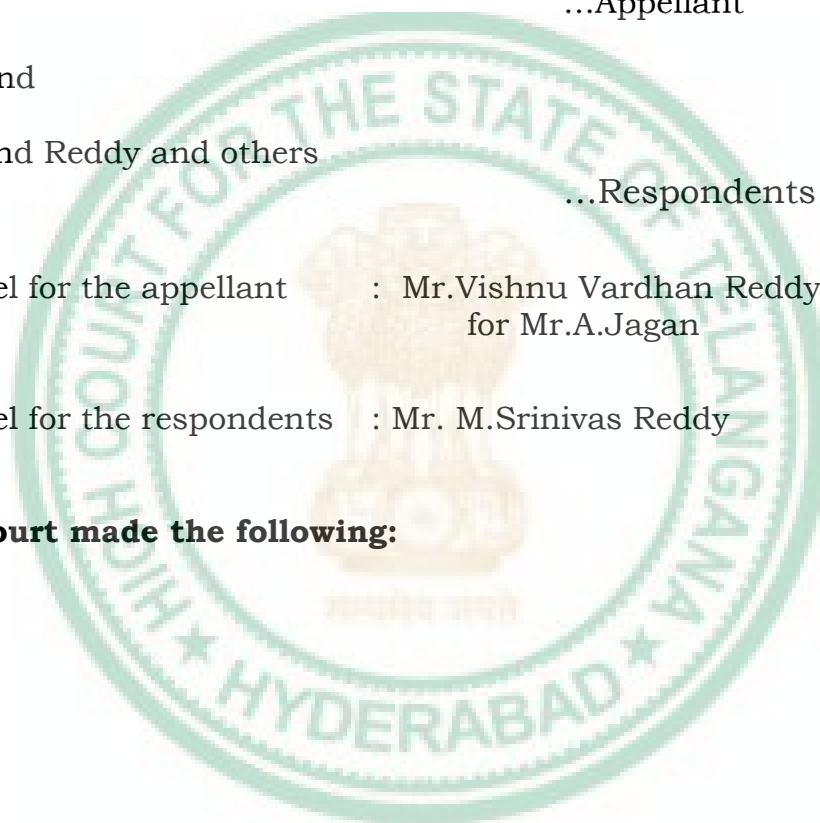
M.Arvind Reddy and others

...Respondents

Counsel for the appellant : Mr.Vishnu Vardhan Reddy,
for Mr.A.Jagan

Counsel for the respondents : Mr. M.Srinivas Reddy

The Court made the following:



COMMON JUDGMENT: (Per the Hon'ble Sri Justice A.Abhishek Reddy)

The present writ appeal is filed by a third party to the writ petition aggrieved by the order of the learned Single Judge, dated 24.09.2019, passed in Writ Petition No.20868 of 2019 whereby the learned Single Judge had directed the official respondents No.5 and 6 therein to complete the survey as sought by the writ petitioners, within a period of four weeks from the date of receipt of a copy of the said order, after giving notice to all the affected parties and communicate the same to the writ petitioners.

2. I.A.No.1 of 2019 is filed seeking leave of the Court to file the present Writ Appeal and I.A.No.2 of 2019 is filed seeking to condone the delay of 18 days in filing the Writ Appeal.

3. The writ petitioners are arrayed as respondents No.1 to 4 in the present writ appeal.

4. The writ appellant claims that the lands in survey Nos.173, 174, 175, 176, 179, 183, 196, 195, 190, 194, 180, 181, 182 total admeasuring Acs.31-38 guntas are the ancestral properties of the appellant. There are disputes between himself and the elder brother of the writ petitioners viz., Janardhan Reddy. But without notice to the appellant, the learned Single Judge has passed the impugned order. Moreover, there are disputed questions of fact. Therefore, the writ petition itself is not maintainable.

5. Heard Mr.Vishnuvardhan Reddy, the learned counsel appearing for Sri A. Jagan, the learned counsel for the writ appellant, and Mr. M. Srinivas Reddy, the learned counsel for the respondent Nos.1 to 4.

6. A perusal of the affidavit filed in support of W.P.No.20868 of 2019 by the respondents 1 to 4 herein reveals that originally the writ petitioners had purchased an extent of Acs.31-11 guntas in survey Nos.173, 191, 192, 193, 175, 179, 182, 183, 190 and 195, situated at Bomreddypally, Kulkacharla Mandal, Ranga Reddy District, through registered sale deed No.2767 of 2006, dated 09.10.2006. Thereafter, their vendor's coparcener had filed O.S.No.691 of 2006 on the file of the I Additional District Judge, Ranga Reddy District, which was transferred to XII Additional District Judge, at Vikarabad. In the said partition suit, he had claimed that there was a Memorandum of Past Partition on 09.08.1978 whereunder the agricultural lands bearing survey Nos.190, 191, 192, 193, 182 & 188 admeasuring Acs.13-10 guntas, Ac.1-30 guntas, Ac.1-31 guntas, Ac.1-13 guntas, Ac.0-18 guntas and Ac.0-26 guntas respectively, in all admeasuring Acs.18-38 guntas, situated at Bomreddy Village and Gram Panchayat, Kulkicherla Mandal, Pargi Taluq, Ranga Reddy District, were allotted to the share of Rakonda Janardhan Bheem Reddy i.e.vendor of the respondents 1 to 4 herein, and agricultural lands in survey Nos.196, 195, 190, 194, 180, 181, 182, 173, 174, 176, 175, 179 & 183, admeasuring Acs.18-25 guntas, Acs.2-13 guntas, Acs.4-30 guntas, Ac.1-12 guntas, Ac.0-38 guntas, Ac.1-21 guntas, Ac.0-26 guntas, Ac.0-16 guntas, Ac.0-33 guntas, Ac.1-11 guntas, Ac.1-20guntas, Ac.1-24 guntas, Ac.1-09 guntas respectively, in all admeasuring Acs.31-38 guntas, were allotted to the appellant herein. In view of the sale effected by the vendor of the respondent Nos.1 to 4 herein to an extent of Acs.4-30 guntas in survey No.190, to some third parties prior to the partition, lands to an extent of

Acs.4-38 guntas i.e. Ac.1-20 guntas in survey No.175, Ac.1-24 guntas in survey No.179, Ac.1-09 guntas in survey No.183 and Ac.0-26 guntas in survey No.182, were allotted to the share of the writ appellant in lieu of the land already sold by the vendor of the respondent Nos.1 to 4 herein, in another village which are the joint family properties of the writ appellant, as well as the vendor of respondent Nos.1 to 4. For, the vendor of the respondent Nos.1 to 4 had alone received the entire sale consideration in respect of the lands already sold by him. In order to avoid litigation and controversy, the respondent Nos.1 to 4 herein along with their vendor, Sri Rakonda Janardhan Bheem Reddy, executed a Rectification Deed, vide document No.3462 of 2006, dated 15.12.2006, restricting the land to an extent of Acs.18.38 guntas in survey Nos.191, 192, 193, 182, 188 and 190 situated at Bomreddy Village, Kulkacharla Mandal, Vikarabad District, instead of the original Ac.31.38 gts.

7. The record clearly shows that in the plaint filed by the appellant himself in O.S.NO.691 of 2006 on the file of the District Judge, R.R.District at L.B.Nagar, he stated that he had no land in survey Nos.191, 192, 193, 182, 188 and 190. Hence, he cannot now have any grievance if the respondent Nos.1 to 4 herein have filed an application before the concerned authorities for survey of the land which they have purchased through registered sale deed. The plaint averments reveal that the said lands fell to the share of the vendor of the respondent Nos.1 to 4 herein only.

8. It is well accepted principle that any survey done by the authorities will be only for the purpose of identifying the

boundaries of the survey numbers and the extents thereof. The same will not take away the possession of the person who is in occupation of the said land. Mere survey and demarcation of any land will not take away or confer any title to any parties, nor can it be construed that possession will be taken away, and given to the other party, or that they are likely to be dispossessed. Therefore, the apprehension of the appellant that he is likely to be dispossessed is highly misplaced. We do not find any infirmity or illegality in the order passed by the learned Single Judge. Thus, no relief can be granted to the appellant herein.

9. For the aforesaid reasons, I.A.Nos.1 and 2 filed by the appellant seeking leave to file the writ appeal and to condone the delay of 18 days in filing the writ appeal are dismissed. Consequently, the writ appeal stands dismissed. Any observations made herein are only for the purpose of disposing of the appeal; it should not be considered as making any observations on the merits or demerits of the case.

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

RAGHVENDRA SINGH CHAUHAN, HCJ

A.ABHISHEK REDDY, J

23rd January, 2020
smr/sur