THE HON'BLE THE CHIEF JUSTICE UJJAL BHUYAN
AND
THE HON'BLE SRI JUSTICE C.V.BHASKAR REDDY

WRIT APPEAL Nos.190, 191 and 193 OF 2020

COMMON JUDGMENT: *(Per the Hon'ble Sri Justice C.V.Bhaskar Reddy)*

These writ appeals are directed against the common order dated 12.02.2020, passed in W.P.Nos.22471, 22487 and 22489 of 2019, whereby and whereunder the learned Single Judge has dismissed the writ petitions filed by the respondents 1 and 2 herein.

2. As these writ appeals are arising out of a common order and the issues involved are the same, all these writ appeals are being disposed of by this common order.

3. The writ petitioners are the appellants. The petitioners claim to have purchased land to an extent of Acs.50.00 each out of total extent of Ac.373.22 in survey No. 613, Nadargul Village, Saroornagar Mandal (presently Balapur Mandal), Ranga Reddy District, through registered sale deeds vide document Nos.635, 637 and 636 dated 05.02.2016 respectively. The petitioners have made an application to the Revenue Divisional Officer,

Kandukur Division, third respondent herein, for conversion of the subject land from agricultural to non agricultural purposes and the said application was forwarded to the Tahsildar, Balapur Mandal (fourth respondent herein), who in turn vide his letter dated 06.09.2019 submitted a report to the third respondent stating that the land claimed for conversion is included under Section 22-A of the Registration Act, 1908 as prohibited property. Basing on the said report, the request of the petitioners was rejected, directing the petitioners to obtain No Objection Certificate (NOC) for de-notifying the property from the prohibited list. Questioning non-deletion of subject lands from the prohibited list maintained under the provisions of Section 22-A of the Registration Act, the writ petitions came to be filed. Pending adjudication of subject writ petitions, the third respondent vide letter dated 26.09.2019 rejected the application for conversion of agricultural land to non-agricultural purposes. Aggrieved by the same, the petitioners filed amendment petitions challenging the order of the third respondent dated 26.09.2019 and the said amendment petitions are allowed.

4. The claim of the writ petitioners for conversion of the land is based upon the entries made in the Pahanis 1960-61 to 1965-66, 1971-72 and 2015-16 in survey No.613, Nadargul Village, showing the subject land as Jagir land and Sri Shivraj Bahadur as pattadar. The legal heirs of Sri Shivraj Bahadur filed O.S.No.155 of 2005 on the file of the Court of the Principal District Judge, Ranga Reddy at L.B.Nagar to incorporate their names by rectifying the revenue entries. The said suit was dismissed vide judgment and decree dated 30.04.2007. Challenging the same, the first appeal vide A.S.No.274 of 2007 was instituted on the file of this Court and this Court, vide its judgment and decree dated 19.12.2011, allowed the first appeal setting aside the judgment and decree passed in O.S.No.155 of 2005.

5. It is the further case of the petitioners that the Government allotted the land to an extent of Acs.373.22 guntas in Survey No.613, Nadargul Village, to the then

A.P. Industrial Infrastructure Development Corporation (presently known as 'Telangana Industrial Infrastructure Development Corporation') (hereinafter referred to as 'TSIIC' for brevity) for developing a hardware park. The allottee i.e., TSIIC filed an appeal questioning the judgment and decree in A.S. No. 274 of 2007 before the Supreme Court in C.A. Nos. 2963 and 2964 of 2013 and the same were dismissed vide judgment dated 09.10.2015.

6. The third respondent has filed counter affidavit stating that the pattadars/legal heirs have executed several registered General Power of Attorneys on various extents of lands in favour of Sri Karim Alladin covering Acs.266.19 guntas of land and have also sold balance land. The alleged purchaser having acquired the land is under obligation to file a declaration under Section 8(1) of the Telangana Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (hereinafter called 'the Land Reforms Act', for brevity). It is further stated that the land in survey No.613 is included in the list of prohibited

properties under the provisions of the Registration Act, 1908, since no declaration was filed by the vendors before the Registering Authority as required under Section 19(1) of the Land Reforms Act. As per Section 19, it is mandatory to file such a declaration and the registering authority, in the absence of filing such declaration, has to intimate the Revenue Divisional Officer for passing appropriate orders under the provisions of the Land Reforms Act.

7. On hearing the parties and on perusing the material available on record, the learned Single Judge dismissed the writ petitions holding that as per Section 8 of the Land Reforms Act, a person, who is holding agricultural land on the notified date together with any land transferred to him on or after 24.01.1971 by any means, has to file a declaration before the Tribunal constituted under the Land Reforms Act. Learned Single Judge after referring to Sections 17, 18 and 19 and Explanation appended to the said provisions, has declined to grant reliefs as prayed in the writ petitions.

8. We have heard the arguments of Mr. J.Prabhakar, learned Senior Counsel, Mr. S.Sharath Kumar, Mr. P.Pratap and Mr. K.S.Murthy, learned counsel for appellants; and Mr. Radhive Reddy, learned Special Government Pleader for respondents.

9. Learned Senior Counsel for the appellants submit that the appellants having purchased the lands admeasuring Ac.50.00 each out of total extent of Ac.373.22 in survey No. 613, Nadargul Village, Saroornagar Mandal (presently Balapur Mandal), Ranga Reddy District, through registered sale deeds became lawful owners and their predecessors- in-interest are the absolute owners and their names were recorded in Pahanis from the year 1960-61 as pattadars and further submitted that legal heirs of original pattadar also filed O.S.No.155 of 2005 on the file of the Principal District Judge, Ranga Reddy seeking incorporation of their names as owners and possessors of the subject land in the revenue records. After dismissal of the said suit, they filed an appeal in A.S.No.274 of 2007 before this Court

and this Court allowed the same vide judgment and decree dated 19.12.2011, as such they have become absolute owners. They contend that the land was allotted by the State Government in favour of APIIC (now TSIIC) to an extent of Acs.373.23. The allottee, i.e., APIIC questioning the judgment and decree passed in A.S.No.274 of 2007 filed C.A.Nos.2963 and 2964 of 2013 before the Supreme Court and the said Appeals were dismissed. Therefore, there is no ambiguity on the title and the appellants being absolute owners are entitled for conversion from agricultural land to non-agricultural purposes, and as such, the rejection of the application of the appellants for conversion is illegal. They further contend that once the property is mutated in the revenue records, the pattadars are entitled to utilise the property by seeking conversion of the said lands from agricultural to non-agricultural use and prayed for allowing the writ appeals.

10. Per contra, learned Government Pleader appearing for respondents has submitted that even though the appeal has been allowed by this Court in A.S.No.274 of

2007, still the appellants and their predecessors-in-title are liable to file a declaration under Section 8(1) of the Land Reforms Act and in the absence of filing of such declaration, the appellants are not entitled for seeking conversion of agricultural land to non-agricultural purposes. He further contended that since the declarations have not been filed, the properties have been included in the prohibited list and unless the appellants obtain necessary permission from the Tribunal constituted under the Land Reforms Act, they are not entitled to NOC for conversion of agricultural land to non-agricultural land and for deletion of lands from Section 22-A of the Registration Act. Further, it is also submitted that the order of the learned Single Judge is a reasoned order and not warranting interference exercising powers under the Letters Patent jurisdiction and prayed for dismissal of the writ appeals.

11. In order to appreciate the nature of proceedings, it is necessary to give a small overview of the Land Reforms Act. The Andhra Pradesh Land Reforms (Ceiling on

Agricultural Holdings) Act, 1972 adopted by the State of Telangana has been included in Ninth Schedule to the Constitution (Thirty-fourth Amendment Act, 1974). Initially the legislature of Andhra Pradesh promulgated ordinance known as 'the Andhra Pradesh Agricultural Lands (Prohibition of Alienation) Ordinance, 1972 on 02.05.1972. The said ordinance was subsequently enacted as the Andhra Pradesh Agricultural Lands (Prohibition of Alienation) Act, 1972. Under these laws, any person and a member of a family whose holding on 02.05.1972 exceeded four hectares of wet land or ten hectares of dry land was prohibited to alienate any part of the land by way of sale, gift, exchange, usufructuary, mortgage or otherwise or effect a partition or create a trust of such holding or any part thereof. Any alienation made or partition effected or trust created in contravention of the said law was declared null and void.

11.1. The Andhra Pradesh (Prohibition of Alienation) Act, 1972 repeals the Andhra Pradesh Ceiling on Agricultural Holdings Act, 1961. To have a comprehensive legislation for imposition of ceiling for agricultural holdings in the State of Andhra Pradesh, the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 was enacted replacing the 1961 Act.

11.2. According to Section 8 of the Land Reforms Act, every person, whose holding on the notified date together with any land transferred by him on or after the 24th January, 1971, whether by way of sale, gift, usufructuary mortgage, exchange, settlement, surrender or in any other manner, are liable to file a declaration as prescribed under the Rules. In this context, it is relevant to extract Section 8 as under:

> **8. Declaration of holding:-** (1) Every person, whose holding on the notified date together with any land transferred by him on or after the 24th January 1971, whether by way of sale, gift, usufructuary mortgage, exchange, settlement, surrender or in any other manner whatsoever, and any land in respect of which a trust has been created by him on or after the 24th January, 1971, exceeds the specified limits, shall, within thirty days from the notified date or within such extended period as the Government may notify in this behalf, furnish a declaration in respect of his holding together with such land, to the Tribunal within whose jurisdiction the whole or

a major part of his holding is situate containing such particulars including those relating to lands held by him in any part of India outside the State, and in such form as may be prescribed.

Explanation I:- Where the land is held or is deemed to be held by a minor, lunatic, an idiot or other person subject to like disability, not being a member of the family unit, the declaration shall be furnished by the guardian, manager or other person-in-charge of the property of such person; and where the land is held or is deemed to be held by a company, firm, association or other corporate body, the declaration shall be furnished by any person competent to act for such company, firm, association or corporate body in this behalf.

Explanation II:- Where the land is held or is deemed to be held by a family unit, the declaration shall be furnished by a person in management of the property of such family unit and the declaration so furnished shall be binding on all the members of the family unit:

Provided that the Tribunal shall in the event of a dispute as to the declaration furnished by the person in management, give to the other member of the family unit an opportunity or making their representation or of adducing evidence, if any in respect of such declaration and shall consider such representations and evidence before determining the ceiling area under this Act.

Explanation III:- In this sub-section specified limit means,-

(a) in the case of wet land – 4.05 hectares (10 acres)

(b) in the case of dry land – 10.12 hectares (25 acres);

and for the purpose of computing the specified limit in a case where the holding of any person included both wet land and dry land, one hectare of wet land shall be deemed to be equal to two and half hectares of dry land.

(2) Without prejudice to the provisions of sub-section (1), the Tribunal shall have power to issue notice requiring any person holding land or residing within its jurisdiction who, it has reason to believe, holds or is deemed to hold land in excess of the ceiling area to furnish a declaration of his holding, or that of his family unit, under sub-section (1) within such period as may be specified in the notice not being less than fifteen days from the date of its communication, and such person shall furnish the declaration accordingly.

(3) If any person who is liable to furnish a declaration under sub-section (1) or sub-section (2) fails to furnish the declaration within the specified time, the Tribunal may obtain the necessary information in such manner as may be prescribed.

11.3. As per sub-section (3) of Section 8, if any person who is liable to furnish a declaration under sub-section (1) or sub-section (2) fails to furnish the declaration within the specified time, the Tribunal may obtain the necessary information in such manner as may be prescribed.

11.4. As per Rule 3(1) of the Land Reforms (Ceiling on Agricultural Holdings) Rules, 1974 (hereinafter referred to as 'the Land Reforms Rules'), it is mandatory that every declaration under Section 8 or Section 18 shall be in Form-I as prescribed and as per Rule 3(5) if any person who is liable to furnish a declaration under sub-section (2) of Section 8 or under Section 18 fails to furnish the declaration within the specified time, without prejudice to any action that may be taken against him under Section 24, the Tribunal may obtain the necessary information by making a reference to the Tahsildar within whose jurisdiction, a major part of the holding of the person is situated, or such person ordinarily resides, or in any other manner as the Tribunal considers convenient for obtaining the necessary information. Further Section 7 of the Land Reforms Act specifically states that on or after 24th January, 1971 but before the notified date, any person has transferred the land by way of sale, gift, usufructuary mortgage, exchange, settlement, surrender or in any other manner whatsoever, any land held by him or created a trust of any land held by him, then the burden of proving that such transfer or creation of trust has not been effected in anticipation of, and with a view to avoiding or defeating the objects of any law relating to a reduction in the ceiling on agricultural holdings, shall be on such person, and where he has not so proved, such transfer or creation of trust, shall be disregarded for the purpose of the computation of the ceiling area of such person.

11.5. Section 17 of the Land Reforms Act reads as under:-

> **17. Prohibition of alienation of holding:-** (1) No person whose holding, and no member of family unit, the holding of all the members of which in the aggregate, is in excess of the ceiling area as on the 24th January, 1971 or at any time thereafter, shall on or after the notified date, alienate his holding or any part thereof by way of sale, lease, gift, exchange, settlement, surrender, usufructuary mortgage or otherwise, or effect a partition thereof,

or create a trust or convert on agricultural land into non-agricultural land, until he or the family unit, as the case may be, has furnished a declaration under Section 8, and the extent of land, if any, to be surrendered in respect of his holding or that of his family unit has been determined by the Tribunal and an order has been passed by the Revenue Divisional Officer under this Act taking possession of the land in excess of the ceiling area and a notification is published under Section 16; and any alienation made or partition effected or trust created in contravention of this section shall be null and void and any conversion so made shall be disregarded.

(2) For the purpose of determining whether any transaction of the nature referred to in sub-section (1) in relation to a land situated in this State, took place on or after the notified date, the date on which the document relating to such transaction was registered shall, notwithstanding anything in Section 47 of the Registration Act, 1908, be deemed to be the date on which the transaction took place, whether such document was registered within or outside the State.

(3) The provisions of sub-section (1) shall apply to any transaction of the nature referred to therein in execution of a decree or order of a Civil Court or of any award or order of any other authority.

As per the above provision, until the land owner files a declaration under Section 8 of the Land Reforms

Act, the extent of land, if any to be surrendered in respect of his holding or that of his family unit has been determined by the Tribunal and an order has been passed by the Revenue Divisional Officer under this Act taking possession of the land in excess of the ceiling area and consequential publication of notification under Section 16 of the Act, any alienation made or partition effected or trust created in contravention of Section 17 shall be null and void. As per Section 19 of the Land Reforms Act, notwithstanding anything in the Registration Act, 1908, every person presenting before a registering officer appointed under the said Act, for registration on or after the notified date, any document relating to alienation of any land or creation of a trust in respect of any land shall, at the time of such presentation, furnish a declaration to the effect that holding of the transferor does not exceed the ceiling area.

12. A conjoint reading of Sections 7, 8, 17 and 18 together makes it clear that before effecting registration, a declaration has to be filed on the holdings of the persons

for agricultural lands and the same has to be computed in accordance with the procedure prescribed under Section 8 of the Land Reforms Act, and if any transaction of transfer of the lands without filing a declaration are declared null and void under Section 17 of the Land Reforms Act.

13. The revenue authorities being the custodian of the lands and authority to regulate the land tenure are entitled to verify the nature of the lands, its classification, extents mentioned therein and whether the same are effected by the ceiling laws. Admittedly, in the present case, the lands purchased by the appellants/petitioners are to an extent of Acs.50.00 each, out of total extent of 373.22 guntas in survey No.613, Nadargul Village, Saroornagal Mandal (presently Balapur Mandal). As per the contention of the appellants, the land is agricultural land and the same was mutated in revenue records as agricultural lands. Since the lands are classified as agricultural lands, it is imperative on the part of the landholder to file a declaration under Section 8 of the Act

or if any land is acquired on or after the notified date or under Section 18 for future acquisition of the land.

14. In this case, neither the original land owners nor the appellants who alleged to have purchased the lands by way of agreement of sale, to an extent of Acs.50.00 each out of the total extent of Acs.373.22 guntas, have filed any declaration. Certainly, as per the provisions of the Land Reforms Act, they are liable to file a declaration and non-filing of the declaration disentitled them for seeking conversion of agricultural land into non-agricultural purposes. Further, if such conversion is allowed, it defeats the very object of the Land Reforms Act. As per Section 17, no person whose holding exceeds the ceiling limits is entitled for conversion of agricultural land into non-agricultural purposes until he or the family unit, as the case may be, has furnished a declaration under Section 8 and the extent of land, if any to be surrendered in respect of his holding or that of his family unit as determined by the Tribunal and to that effect, an order has been passed by the Revenue Divisional Officer

cum Land Reforms Tribunal and excess land being surrendered to the Government.

15. None of the appellants have filed any declaration under the provisions of the Land Reforms Act to seek permission for conversion of agricultural land into non-agricultural purposes under the provisions of the Telangana Agricultural Land (Conversion For Non Agricultural Purposes) Act, 2006 (Act, 2006) or under the provisions of the Telangana Land Revenue Act, 1317 Fasli and the Rules made thereunder.

16. In the absence of any declaration being filed, the Revenue Divisional Officer, who is also the authority as Tribunal under the Land Reforms Act, has called for a report from the Tahsildar and the Tahsildar being the competent authority has submitted a report dated 06.09.2019, in response to the letter No.L/Spl/19, dated 19.06.2019 received from the office of Revenue Divisional Officer, stating that the land in survey No.613 to an extent of Acs.373.22 guntas was recorded as Poramboke (Government land), correlating to survey Nos.1 to 191

(old) and physical status of the land is kept fallow on ground. Further, it is stated that the land is included in prohibited property under Section 22-A of the Registration Act and unless the said land is de-notified from the prohibited list, the request of the appellants/ petitioners for conversion of agricultural land into non-agriculture purpose shall not be considered. In pursuance of the same, the third respondent herein vide letter No.L/2142/2019, dated 26.09.2019 has issued an endorsement rejecting the application of the appellants/ petitioners for conversion of agriculture land into non-agriculture purposes.

17. It is worth mentioning that Section 22-A of the Registration Act prohibits certain documents from registration relating to transfer of immovable property, alienation or transfer of which is prohibited under any statute of the State or Central Government. Since the lands claimed by the appellants to the extent of Acs.50.00 each, fall within the provisions of the Land Reforms Act, they are liable to file declaration and in the

absence of filing of any declaration, it can be construed that the lands are prohibited under Section 22-A(1a) of the Registration Act. Therefore, the revenue authorities have rightly included the properties claimed by the appellants/petitioners under the prohibited list.

18. We are of the considered view that the learned Single Judge taking note of the nature of the lands, its classification and inclusion of the subject lands under Section 22-A of the Registration Act, 1908, and after referring exhaustively to the provisions of the Land Reforms Act, which debars the appellants from seeking permission for conversion of agricultural land into non-agriculture purposes as the same are within the ceiling limits, has rightly dismissed the writ petitions.

19. For the reasons stated above, we do not find any infirmity or illegality in the impugned order passed by the learned Single Judge and the writ appeals are accordingly dismissed.

Miscellaneous applications, pending if any, shall stand closed. There shall be no order as to costs.

UJJAL BHUYAN, CJ

C.V.BHASKAR REDDY, J

13.10.2022
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