THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

W.P. Nos.37158, 37169, 37252, 37667 and 37719 of 2018

COMMON ORDER:

Since the issue in all these writ petitions is intrinsically connected with each other, they are taken up together and disposed of by this common order.

W.P. Nos.37158 and 37667 of 2018 are filed seeking to call for the records relating to the order passed by respondent No.2 in No.D5/2106/2018 dated 15.09.2018 and quash the same.

W.P. Nos.37169, 37252 and 37719 of 2018 are filed seeking to call for the records relating to order passed by respondent No.2 in D5/2017/2018, dated 15.09.2018, and quash the same.

Heard Sri O. Manohar Reddy and Sri V.V. Satish, learned counsel for the respective petitioners, the learned Government Pleader for Revenue and Sri E. Madan Mohan Rao, learned counsel for the respondents.

Brief facts of the case in W.P. No.37667 of 2018 are as under:

The petitioner has purchased the land admeasuring Acs.15-28 guntas in survey No.19 of Mallapur Village, Balapur Mandal, R.R. District, by way of an unregistered sale deed and thereafter he made an application to the Tahsildar for validation of the sale deed under provisions of Telangana Rights in Land and

Pattadar passbook Act, 1971, and the Tahsildar *vide* proceedings No.A/244/1990 dated 02.06.1990 has validated the said document. Thereafter, the petitioner has converted the land into plots and sold the same in favour of various persons, who have since constructed the houses and residing therein. Respondent No.5 herein, who claims to have purchased the property by means of a registered sale deed dated 22.06.2006 and mutated his name in revenue records, has filed an appeal before the Revenue Divisional Officer after a period of more than 27 years. The Revenue Divisional Officer entertained the appeal and numbered it as case No.A2/2172/2017 and issued notices to the petitioner herein. Questioning the jurisdiction of the Revenue Divisional Officer in entertaining the appeal, petitioner herein has filed W.P. No.37320 of 2017. It is further stated that another purchaser has also filed appeal No.A2/2171/2017 as against the order of the Tahsildar in regularizing the sale deed in File No.A/919/1990 dated 02.06.1990. Further, the respondent No.5 and three others have filed an application before the Revenue Divisional Officer, Ranga Reddy, alleging tampering of the records and requested to enquire into the matter. Further, respondent No.5 and others have also filed W.P. No.24676 of 2013 before this Court seeking a direction from this Court for rectification of alleged tampered entries and the same was disposed of by this Court vide order dated 30.08.2013 directing the Deputy Collector and Tahsildar, Saroornagar Mandal, Ranga Reddy District, to conduct enquiry in the matter and pass orders. Based on the said directions, the Tahsildar concerned passed an order dated 11.06.2015 rejecting the representation of respondent No.5. Aggrieved by the same, the matter was carried to the Joint Collector by way of revision vide Revision Case No.D5/2111/2016 and the same was disposed of on 11.11.2016 directing the petitioners therein i.e. respondent No.5 herein and three others to approach the appellate authority for redressal of their grievance. Questioning the same, respondent No.5 and others have filed W.P. No.43754 of 2017 and this Court vide common order dated 21.02.2018 has remanded the matter to the Joint Collector. After the said remand, the respondent No.5 filed an appeal bearing No.D5/2106/2018 questioning the order of the Tahsildar in File No.A/244/1990 dated 02.06.1990 in respect of the land in survey No.19 admeasuring Acs.15-28 guntas, and the same was disposed of by the Joint Collector along with other cases by way of a common order dated 15.09.2018. Aggrieved by the same, petitioner has filed W.P. No.37667 of 2018 is filed.

Having aggrieved by the common order dated 15.09.2018 passed by the Joint Collector, the subsequent purchasers of various plots in survey No.19 from the petitioner in W.P.No.37667 of 2018, have filed W.P. No.37158 of 2018.

The case of the petitioner in W.P. No.37719 of 2018 is that he purchased the land admeasuring Acs.15-18 guntas in survey No.20 of Mallapur Village, Balapur Mandal, Ranga Reddy District, through an un-registered sale deed and thereafter he made an application to the Tahsildar for validation of the sale deed under provisions of Telangana Rights in Land and Pattadar passbook Act, 1971, and the Tahsildar *vide* proceedings No.A/919/1990 dated 02.06.1990 has validated the said document. Thereafter, the petitioner has converted the land into plots and sold the same in favour of various persons, who have constructed the houses and are residing therein. Respondent No.5 herein, who claims to have purchased the property by means of a registered sale deed dated 22.06.2006 and mutated his name in revenue records, has filed an appeal before the Revenue Divisional Officer after a period of more than 27 years. The Revenue Divisional Officer has entertained the appeal and numbered it as case No.A2/2171/2017 and issued notice to the petitioner herein. Questioning the jurisdiction of the Revenue Divisional Officer in entertaining the appeal, petitioner herein field W.P. No.37321 of 2017. It is further stated that another purchaser has also filed appeal No.A2/2172/2017 as against the order of the Tahsildar in regularizing the sale deed in File No.A/244/1990 dated 02.06.1990. Further, the respondent No.5 and three others have filed an application before the Revenue

Divisional Officer, Ranga Reddy, alleging tampering the records and requested to enquire into the matter. Further, respondent No.5 and others have also filed W.P. No.24676 of 2013 before this Court seeking a direction from this Court for rectification of alleged tampered entries and the same was disposed of by this Court vide order dated 30.08.2013 directing the Deputy Collector and Tahsildar, Saroornagar Mandal, Ranga Reddy District, to conduct enquiry in the matter and pass orders. Based on the said directions, the Tahsildar concerned passed an order dated 11.06.2015 rejecting the representation of respondent No.5. Aggrieved by the same, the matter was carried to the Joint Collector by way of revision *vide* Revision Case No.D5/2111/2016 and the same was disposed of on 11.11.2016 directing the petitioners therein i.e. respondent No.5 herein and three others to approach the appellate authority for redressal of their grievance. Questioning the same, respondent No.5 and others have filed W.P. No.43754 of 2017 and this Court vide common order dated 21.02.2018 has remanded the matter to the Joint Collector. After the said remand, the respondent No.5 filed an appeal bearing No.D5/2107/2018 questioning the order of the Tahsildar in File No.A/919/1990 dated 02.06.1990 in respect of the land in survey No.20 admeasuring Acs.15-28 guntas, and the same was disposed of by the Joint Collector along with other cases by way of a common order dated 15.09.2018. Aggrieved by the same, petitioner has filed W.P. No.37719 of 2018 is filed.

Having aggrieved by the common order dated 15.09.2018 passed by the Joint Collector, the subsequent purchasers of various plots in survey Nos.20 and 19 have filed W.P. Nos.37169 and 37252 of 2018.

In all the writ petitions, this Court has granted interim suspension of the impugned orders.

In W.P. Nos.37169, 37252 and 37719 of 2018, vacate stay applications have been filed along with counter affidavits mainly contending that the sale deeds executed in favour of the writ petitioners are void and sham documents. It is further stated that when some of the persons, who unauthorizedly purchased the plots, have tried to raise constructions, the HMDA authorities have demolished those structures. Further, the layout regularization applied by the petitioner in W.P. No.37719 of 2018 has been rejected by the HMDA *vide* proceedings No.HMDAL112777 dated 18.09.2017. That no material has been placed to show that the subject land has been converted from agricultural to non-agricultural purpose. It is also stated that the lands in survey Nos.18, 19 and 20 total admeasuring Acs.46-38 guntas is classified as patta land and one Syed Mohd. Shah Sabir Hussain, who was the pattadar and owner of the said land. Said Syed Mohd. Shah

Sabir Hussain died in the year 1958 leaving behind is wife, four sons and three daughters as legal heirs. They in turn have sold the land in survey No.20 admeasuring Acs.15-18 guntas to this respondent under the registered sale deed dated 22.06.2006. The Tahsildar after issuing notice and conducting due enquiry has passed mutation order dated 29.05.2006. Further, the alleged document dated 02.06.1990 came to light only during the proceedings before the Joint Collector and the same was obtained fraudulently and therefore the revisions are well within limitation and maintainable.

Learned counsel for the petitioners in W.P. Nos.37667 and 37719 of 2018 has stated that in the earlier round of litigation, *vide* common order, dated 21.02.2018, in W.P.Nos.37320, 37321 and 43754 of 2017, this Court had allowed Writ Petition Nos.37320 and 37321 of 2017 filed by Shareef Mohammed and Shareef Hussain and remanded Writ Petition No.43754 of 2017 filed by Aruvela Shravan Kumar, P.V.Ramana Yadav, Nikku Ravi Kumar and Aalla Goverdhana Rao, who are the unofficial respondents in W.P. Nos.37320 and 37321 of 2017. Learned counsel has stated that the revisional authority by misinterpreting the common order passed by this Hon'ble High Court in W.P.Nos.37320, 37321 and 43754 of 2017, dated 21.02.2018, has dealt with the revision filed by the unofficial respondents in

W.P. Nos.37320 and 37321 of 2017. Learned counsel has stated that as against the orders of regularization passed by the Tahsildar concerned in File Nos.A/244/1990 and A/919/1990, dated 02.06.1990, the unofficial respondents have filed Appeal Nos.A2/2172/2017 and A2/2171/2017 before the Revenue Divisional Officer concerned. Questioning the entertaining of the appeals by the RDO, Shareef Mohammed and Shareef Hussain have filed W.P.Nos.37320 and 37321 of 2017 respectively and this Court had allowed those writ petitions. Therefore, the challenge to the orders passed by the Tahsildar in file Nos.A/244/1990 and A/919/1990, dated 02.06.1990, became final and as such, entertaining the fresh revisions filed by the unofficial respondents by the Joint Collector *vide* File Nos.D5/2106/2018 and D5/2107/2018, is not only contrary to the purport of the common order passed by this Court in W.P.Nos.37320 and 37321 of 2017 but also against the provisions of the Act. That, without there being any delay condonation petition filed by the unofficial respondents, entertaining the revisions after a lapse of more than 28 years is contrary to the provisions of the Act. Learned counsel has stated that the Joint Collector ought not have entertained the fresh revisions filed by the unofficial respondents and should had only dealt with case No.D5/2111/2016, which was the subject matter of W.P. No.43754 of 2017, which was allowed and remanded back for fresh consideration. Learned counsel has also stated that the learned Single Judge while relying on the orders of this Hon'ble Court in **Santhosh Verma and others vs. Joint Collector**[1] had only held that as against the regularization orders, a revision is maintainable and set aside the earlier order of the Joint Collector, dated 11.11.2016, and directed the Joint Collector to pass appropriate orders, in accordance with law, within a period of six months from the date of receipt of the copy of the order but the same does not mean that the objection taken by the petitioners herein regarding the maintainability of the revisions after a period of more than 28 years had been dispensed with or brushed aside. That the Joint Collector, instead of dealing with the objections of the petitioners with regard to the filing of the appeal after the period of limitation is over, has dealt with the matter as if the High Court has remanded the matter back without the necessity of going into the issue of limitation. Moreover, it is stated that after passing of the common order, dated 21.02.2018, the unofficial respondents have filed two more fresh revisions before the Joint Collector without there being any condone delay petitions and the same were entertained even though a specific objection has been raised by the petitioners herein and the said objection was also not dealt with. Learned counsel has also stated that the nature of the

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[1] 2011 (3) ALT 683 (FB)

land was changed from agriculture to non-agriculture and the entire land was converted into plots and therefore the question of application of Rights in Land and Pattadar Pass Books Act, 1971, (ROR Act) at this stage to the present case does not arise, but the Joint Collector has not dealt with any of the said contentions raised by the petitioners.

The learned counsel for the petitioners in W.P.Nos.37158, 37252 and 37169 of 2018 filed by the subsequent purchasers of Shareef Mohammed and Shareef Hussain has contended that even though they have registered sale deeds executed in their favour and mutation was also done in their favour, the unofficial respondents did not make them as party-respondents to the proceedings before the Joint Collector and without giving them an opportunity of hearing or putting them on notice, the impugned orders have been passed and therefore sought to set aside the order.

Per contra, the learned counsel appearing for the unofficial respondents has vehemently argued with regard to the maintainability of the writ petitions and stated that the Joint Collector has rightly allowed the revisions having found that the fraud was played in getting the regularization orders from the Tahsildar. Learned counsel has also stated that the entire proceedings before the Tahsildar were obtained by fraud and the orders of the Tahsildar in regularizing the un-registered sale deed is contrary to the provisions of Section 5-A of the Act. That the revisional authority under the Act is empowered to even take up the matter on *suo moto* basis without there being any application. Learned counsel has stated that the fraud vitiates all solemn acts and once it is established that fraud was played, the authority has ample power under the Act to set aside the orders which were obtained by playing fraud. That, there is no limitation prescribed when it is shown that the orders were obtained by fraud and therefore prays to dismiss the writ petitions.

In order to resolve the issue in the present writ petitions, the order of remand passed by this Court in W.P.No.43754 of 2017 *vide* common order dated 21.02.2018 has to be necessarily interpreted.

A reading of the order dated 21.02.2018 shows that all the writ petitions filed by the petitioners therein i.e., Shareef Mohammed Shareef Hussain, Aruvela Shravan Kumar, P.V.Ramana Yadav, Nikku Ravi Kumar and Aalla Goverdhana Rao were allowed. As stated above, Shareef Mohammed and Shareef Hussain have filed W.P.Nos.37320 and 37321 of 2017 respectively questioning the action of the R.D.O./Revisional Authority in entertaining the appeals filed by the unofficial respondents and the said writ petitions were allowed. W.P. No.43754 of 2017 filed by the unofficial respondents was also allowed setting aside the order of the Joint Collector/revisional authority in File No.D5/2111/2016, dated 11.11.0216, wherein the Joint Collector had directed the unofficial respondents to approach the appellate authority for seeking out their remedies, and the matter was remanded back to the Joint Collector for dealing with the revision on its own merits.

A perusal of the impugned order passed by the Joint Collector shows that along with the matter which was remanded back to him for dealing afresh i.e. the file in case No.D5/2111/2016, two other revisions filed subsequently in the year 2018 were also taken up. Even though the learned counsel for the petitioners has stated that these revisions were filed after the order of the remand passed by the learned Single Judge in the common order, dated 21.02.2018, the grounds of revision have not been filed to enable the Court to see if the revisions are filed after the order of remand passed by this Court or not. The Joint Collector has dealt with the case on merits without going into the question of limitation. Even though a specific objection has been taken with regard to the maintainability of revisions after a lapse of 28 years, the Joint Collector has brushed aside the said objection on the ground that the matter has been remanded by the Hon'ble High Court and therefore, there was no need to go into the question of limitation. Insofar as the other two fresh revisions filed by the unofficial respondents i.e., D5/2106/2018 and D5/2107/2018 are concerned, the Joint Collector has not adverted to the question of limitation at all. When this Court has remanded the matter back to the Joint Collector for dealing with case No.D5/2111/2016 afresh on merits, the same does not mean that the objections taken by the petitioners before the Joint Collector have been given a go-bye. When the matter is remanded by the appellate authority or a superior Court for dealing afresh, it does not mean that the objections taken by the parties have to be brushed aside or need not be dealt with at all. The authority concerned has to necessarily deal with each and every objection taken by the parties. Even though a specific stand was taken by the petitioners herein that the entire land was converted into plots and sold to various persons, the Joint Collector has brushed aside the status of the land on the ground that he only had to go into the validity or otherwise of the orders passed by the Tahasildar in File Nos.A/244/1990 and A/919/1990 and therefore the present nature of the land is not a material factor for deciding the matter, which is incorrect and cannot be countenanced. Moreover, admittedly, in this case, the writ petitioners in W.P.Nos.37158, 37169 and 37252 of 2018 were not made as party respondents or put on notice before passing the impugned orders. This Court as well as the Hon'ble Supreme Court in a catena of cases have held that when the precious civil rights of a party are likely to be affected by passing of any orders, those persons have to be made as party-respondents to the said proceedings. Even though, a specific stand was taken by the petitioners – Shareef Mohammed and Shareef Hussain that part of the subject lands were already converted into plots and sold to various persons including the petitioners in W.P.Nos.37158, 37169 and 37252 of 2018, the unofficial respondents, for the reasons best known to them, have not made the individual purchasers as party respondents to the proceedings and on this ground alone the impugned orders are liable to be set aside as the orders are obtained behind the back of the actual persons who are in physical possession of the land and claiming ownership under registered sale deeds.

For the afore-stated reasons, this Court is of the *prima facie* opinion that the Joint Collector has erred in passing the impugned order without dealing with the question of limitation raised by the writ petitioners herein and the other objections raised by them. Having regard to the same, the impugned order has to be set aside and the matter has to be remanded back to the authority for fresh adjudication. Accordingly, the impugned order is set aside.

In view of the fact that the Special Tribunals are exclusively constituted under the provisions of the Telangana Rights in Land

and Pattadar Pass Books Act, 2020, for the purpose of deciding all the matters pending under the provisions of the Telangana Rights in Land and Pattadar Pass Books Act, 1971, the matter is remanded back to the Special Tribunal concerned. The Special Tribunal while dealing with the matter shall deal with the question of limitation raised by the petitioners and also the nature of the land as on the date of filing of the revisions by the unofficial respondents. The Special Tribunal shall verify as to when the two revisions i.e., D5/2106/2018 and D5/2107/2018 have been filed and if they are filed after the order of remand, whether any condone delay petitions have been filed by the revision petitioners therein or not and shall deal with the question of limitation. The Special Tribunal shall deal with the question of limitation first and in case the Special Tribunal is satisfied with the delay caused in filing the revisions, the same shall be recorded and then proceed with the matter on merits i.e. verify the nature of the land, see if the provisions of the ROR Act are applicable or not and then deal with the matter on merits. It is needless to mention that the writ petitioners in W.P.Nos.37158, 37169 and 37252 of 2018 and all the parties who are in possession of the subject lands shall be impleaded as party-respondents by the unofficial respondents. The Special Tribunal shall also put them on notice and give them opportunity of hearing before passing any orders on merits. The

Special Tribunal shall endeavour to dispose of the main case, as expeditiously as possible, preferably within a period of four months from the date of receipt of a copy of this order.

It is made clear that the Special Tribunal shall deal with the matter on its own merits and while remanding the matter to the Special Tribunal concerned this Court has refrained from making any comments on the merits of the case.

Subject to above observations, the Writ Petitions are allowed to the extent indicated above.

Miscellaneous petitions pending in these writ petitions, if any, shall stand closed. There shall be no order as to costs.

A.ABHISHEK REDDY, J

Date : 19-04-2022.
smr/sur

Issue C.C. in one week.