THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

W.P. Nos.34955 and 34956 OF 2017

COMMON ORDER:

Since the order impugned in both these writ petitions is one and the same, the writ petitions are taken up together and disposed of by this common order.

2) Both these writ petitions are filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari by calling for the records and orders in case No.E3/1304/2008, dated 20.07.2017, passed by respondent No.2-Joint Collector, and quash the same.

3) Brief facts of the case are that originally survey No.273/6 of Rachakonda Village comprised of Acs.211.20 was shown as patta land in Khasra Pahani. Out of the said land, an extent of Acs.82.19 guntas was declared as ceiling surplus land and the remaining land admeasuring Acs.128.35 guntas was recorded as patta land in the name of Zahoorunnisa Begum. Out of the surrendered surplus land of Acs.82.19 guntas, Acs.28.56 guntas were assigned to 14 beneficiaries and the remaining land admeasuring Acs.53.15 guntas is covered by rocky area and hillocks. It is further stated that Zahoorunnisa Begum along with five others had executed a registered General Power of Attorney document No.81 of 1966, dated 19.05.1966, appointing one Mir Kursheed Ali as General Power of Attorney with powers vested on him for selling the property and transferring the patta land in favour of third parties. Thereafter, respondent Nos.11 to 13 herein have purchased the land admeasuring Acs.54-00, Acs.38-00, and

Acs.36-00 respectively (total Acs.128-00 guntas) under sada sale deeds dated 21.03.1970, 16.03.1970 and 16.03.1970 respectively, executed by the GPA holder Mir Kursheed Ali. Thereafter, on applications being made under section 5-A of the A.P. Rights in Land and Pattadar Pass Books Act, 1971 (in short 'ROR Act') by respondent Nos.11 to 13 herein for regularization of the sada sale deeds, the Mandal Revenue Officer, Narayanpur Mandal, after recording the statement of the GPA holder Mir Kursheed Ali and conducting the proceedings, as per law, had passed orders directing regularization of the sada sale deeds upon payment of requisite fee and stamp duty. Accordingly, on 19.10.2016, respondent Nos.11 to 13 have paid stamp duty and registration fee. Upon validation of the sada sale deeds, Form 13B and Form 13C Validation Certificates were issued by the Tahsildar in respect of lands admeasuring Acs.54-00, Acs.38-00 and Acs.36-00 in favour of respondent Nos.11 to 13 herein and they were also issued pattadar passbooks and title deeds. Subsequently, respondent Nos.14 to 18 along with one P.Natraj have purchased the above extents of the land from respondent Nos.11 to 13 under registered sale deeds and mutation proceedings dated 30.06.2007 were also issued in favour of respondent Nos.14 to 18. Thereafter, conversion orders converting the lands from agriculture to non-agriculture *vide* order dated 14.09.2007 were passed by the Revenue Divisional Officer. It is the further case of the petitioners that they have purchased the land admeasuring Acs.42-00 guntas and Acs.67.35 guntas respectively (total Acs.109.35 guntas) under different registered sale deeds dated 07.11.2007, 09.01.2008 and 27.08.2008 from respondent Nos.14 to 18. While things stood thus, one Baddula Chandraiah, the father respondent Nos.20 to 22 herein, had filed an application before the official respondents stating that he is having 13B Certificate vide file No.3031/1995 dated 23.12.1995 in survey No.273/6 and therefore the order issued in favour of the predecessors-in-interest of the petitioners is illegal, bad and contrary to the provisions of the ROR Act. Based on the above complaint, the respondent No.2 had taken up *suo motu* revision by invoking the powers conferred under Section 9 of the ROR Act, conducted an enquiry and passed the impugned order dated 20.07.2017 stating that the names of respondent Nos.11 to 13 were illegally recorded in the pahanies and cancelled the validation certificates and mutation made in favour of respondent Nos.14 to 16 and further directed the Tahsildar to restore the patta in the name of Zahoorunnisa Begum and take further action on the claim of respondent Nos.6 to 10 for succession. Aggrieved by the same, the petitioners are before this Court by way of writ petitions under Article 226 of the Constitution of India.

4) This Court, on 23.10.2017, had granted interim stay of the impugned order dated 20.07.2017 on the ground that no notice was caused to the petitioners, who are the end purchasers, before passing the impugned order.

5) Even though the writ petitions are pending adjudication before this Court since the year 2017, no counter is filed by the official respondents, *in spite* of granting several adjournments. Hence, this Court is constrained to proceed further without there being any counter of the official respondents.

6) The contesting respondents i.e. respondent Nos.6 to 10 have filed separate counter affidavits in both the writ petitions, however, with same pleadings, mainly contending that basing on some fabricated documents, the respondent Nos.11 to 13 have obtained the orders of regularization of unregistered sale deeds and also pattadar pass books and title deeds. That several complaints were filed against the issuance of 13B Certificate in respect of the land in survey No.273/6, upon which, the Joint Collector, had initiated an enquiry and submitted a report dated 09.12.2008 concluding that respondent Nos.11 to 13 herein have fraudulently obtained 13B Certificate and took up the matter as *suo motu* revision under Section 9 of the ROR Act, and issued notices to respondent Nos.11 to 16 calling upon their explanation. In the said revision, these respondents, being the legal heirs of late Zahoorunnisa Begum, got themselves impleaded and contested the matter. The alleged execution of GPA by the Zahoorunnisa Begum was denied. It is specifically averred that as the computation of surplus lands of Zahoorunnisa Begum was after the year 1973, there was no occasion for Zahoorunnisa Begum to sell the land to an extent of Acs.128-00 guntas out of the total extent of Acs.211-20 guntas in the year 1970 itself through the GPA. It is specifically alleged that 13B Certificates were brought into existence in collusion with the then revenue authorities by the predecessors-in-interest of the petitioners. Before issuing the 13B Certificates, no notice was issued to these respondents. That the validation of the sada sales by the authorities is one without jurisdiction, more so, when the respondents are not put on notice, that the orders were obtained

by playing fraud and therefore the revisional authority has rightly passed order under Section 9 of the ROR Act. Taking all these facts into consideration, the respondent No.2 had passed the impugned order. That the impugned order is perfectly in consonance with the provisions of the ROR Act and there are no reasons to interfere with the same. Hence, it is prayed to dismiss both the writ petitions.

7) Heard Sri Vedula Venkata Ramana, learned Senior Counsel, appearing on behalf of Sri Peri Prabhakar, the learned counsel for the petitioners, the learned Government Pleader for Revenue for respondent Nos.1 to 4, Sri K.Raghuveer Reddy, learned counsel for respondent Nos.6 to 10, Sri Shaik Kalid, learned counsel for respondent Nos.7 and 8, and Sri P.Jagdish Chandra Prasad, learned counsel for respondent Nos.20 to 22. Perused the record.

8) Even though the learned Senior Counsel appearing for the petitioners as well as the learned counsel appearing on behalf of the unofficial respondents have argued on various points, this Court is not inclined to go into the same, but is mainly dealing the Writ Petitions on the sole ground that no notice has been given to the petitioners herein.

9) A perusal of the impugned order shows that the Joint Collector while taking up *suo motu* revision, has set aside the orders passed under Section 5-A of the ROR Act regularizing the unregistered sale deeds dated 21.03.1970, 16.03.1970 and 16.03.1970, *vide* proceedings dated 23.10.2006 in Case No.E3/13014/2008 mainly on the grounds that except the

challans, no documentary evidence has been filed by respondents 11 to 13, that their names are entered in the pahani of the year 1999-2000 with different ink and writing fraudulently, that consequent to the death of Smt. Zahorunnisa Begum on 30.06.1989, the GPA executed by her stood terminated, that the unregistered sada sale deed do not contain the boundaries of the subject land and finally the Tahsildar failed to follow due procedure contemplated under the law.

10) It is pertinent to note that the Joint Collector while dealing with the matter was conscious of the fact that respondent Nos.1, 4 and 6 in the said revision have already sold the subject lands in favour of the petitioners herein. The Joint Collector in his order has stated that the petitioner in W.P. No.34955 of 2017 had purchased land admeasuring Acs.35-00 guntas and Acs.36-00 guntas under document No.47/2008 dated 09.01.2008 and No.3087/2008 dated 27.08.2008 J. Laxmi Narsaiah and Pathi Kiran Kumar respectively. Petitioner in W.P. No.34956 of 2017 had purchased the land admeasuring Acs.15-00 guntas, Acs.29-00 guntas and Acs.23-35 guntas under document No.318/2007 dated 07.11.2007, No.316/2007 dated 07.11.2007, and No.302/2007 from M.Natraj, M. Ashok Kumar and M. Thimmaiah Gupta respectively. Thereafter, the Joint Collector while setting aside the orders impugned in the said revision has held as under:

> "Thus, the end purchasers are Ocean Park Multi Tech Ltd Company and Prestige Avenues Ltd. But the respondents have not filed any of the sale deeds. Since the respondents 4 to 6 are representing the matter, their alleged purchasers are not made party to the case."

11) This Court as well as the Hon'ble Supreme Court in a catena of cases have held that any order passed by a Court, *quasi* judicial authority or administrative authority without putting the persons, who are likely to be adversely effected by the said order, on notice, as one without jurisdiction, *non est* in the eye of law, and contrary to the well settled principles of natural justice and equity. The Joint Collector having come to the conclusion that the subject lands are no longer held by respondents 4 to 6 and that they have already sold their interest to the petitioners herein, ought to have put the petitioners on notice before passing the order, but for reasons best known to the Joint Collector, he has not bothered to put the petitioners on notice. Even though the Section 9 of the ROR Act empowers the Collector to exercise *suo motu* revision power, such exercise should be done in consonance with the well settled principles of law and the provisions of the ROR Act. The Hon'ble Supreme Court on number occasions has held that any order passed behind the back of the aggrieved party without putting them on notice or giving them an opportunity of hearing cannot be sustained and the same is liable to be set aside.

12) It is the basic principle of law that every order passed by any administrative body or any quasi-judicial body and/or even by the judicial body must disclose the reasons [Ref. to **Kranti Associates Private Limited v. Masood Ahmed Khan** (2010) 9 SCC 496].

13) In **Chinnam Pandurangam vs. Mandal Revenue Officer**[1], a Full Bench of this Court, at paras 7 and 10, has held as under:

> *"7. The above analysis of the relevant statutory provisions shows that proviso to Section 5 (1) and Section 5(3) represent statutory embodiment of the most important facet of the rules of natural justice i.e. audi alterem partem. These provisions contemplate issue of notice to the persons likely to be affected by the action/decision of the Mandal Revenue Officer to carry out or not to carry out amendment in the Record of Rights. Section 5 (3) provides for issue of written notice to all persons whose names are entered in the Record of Rights and who are interested in or affected by the amendment. A copy of the amendment and the notice is also required to be published in the prescribed manner. If the Legislature thought that publication of a general notice in Form-VIII will be sufficient compliance of the rules of natural justice, then there was no occasion to incorporate a specific requirement of issuing written notice to the persons whose names are entered in the Record of Rights and who are interested in or affected by the amendment and also to other person whom the recording authority has reason to believe to be interested in or affected by the amendment.*
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> *10. The issue deserves to be considered from another angle. He can do so only if a notice regarding the proposed amendment is given to him by the recording authority. It need no emphasis that the rules of natural justice are applicable in all judicial and quasi-judicial proceedings. The rule of hearing is also applicable in purely administrative proceedings and actions where any public authority passes an order affecting the rights of any individual. The applicability of the rules of natural justice to purely administrative actions has been recognized by the Supreme Court in State of Orissa v. Dr. (Miss) Binapani Dei, AIR 1967 SC 1269 and has been reiterated in various judgments including those of A.K. Kraipak v. Union of India, AIR 1970 SC 150, Maneka Gandhi v. Union of India, AIR 1978 SC 597, S.L. Kapoor v. Jagmohan, AIR 1981 SC 136, Swadeshi Cotton Mills v. Union of India, AIR 1981 SC 818, and Olga Tellis v. Bombay Municipal Corporation, AIR 1986 SC 180."*

14) Hence, on the sole ground that the petitioners were not put on notice before passing the impugned order, the order under challenge in both the Writ Petitions is liable to be set aside and the same is accordingly set aside.

15) By virtue of the Telangana Rights in Land and Pattadar Pass Books Act, 2020 (for short, 'the Act No. 9 of 2020') coming into force w.e.f.29.10.2020, all the appeals and revisions pending with the revenue authorities arising out of the Act No.9 of 2020,

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[1] 2007 (6) ALD 348 (FB)

are to be dealt with only by the Special Tribunals constituted under the Act No.9 of 2020.

16) In view of the above, the matter is remanded to the Special Tribunal to pass necessary orders on merits duly putting all the parties, including the petitioners herein, on notice, calling for an explanation, and affording them reasonable opportunity of hearing. The entire exercise shall be completed as expeditiously as possible, preferably, within a period of twelve weeks from the date of receipt of a copy of this order. Pursuant to the order of the Joint Collector, if any changes have already been made in the revenue records and the name of the original pattadar is entered, the same shall be maintained and no transaction be allowed till the disposal of the matter before the Special Tribunal.

17) Both the writ petitions are allowed to the extent indicated above. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

A.ABHISHEK REDDY, J

Date : 03-01-2022
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