HON'BLE SRI JUSTICE K. LAKSHMAN

WRIT PETITION Nos.32135 AND 31584 OF 2022

COMMON ORDER:

Heard Mr. Goli Viplav Reddy, learned counsel for the petitioner, Mr. J. Amruth Rao, learned Assistant Government Pleader for Revenue appearing on behalf of respondent Nos.1 to 3, and Mr. Ashok Reddy Kanathala, learned counsel for respondent Nos.4 to 6.

2. **FACTUAL BACKGROUND**:

i) Originally, respondent Nos.5 and 6 are absolute owners and possessors of land admeasuring Ac.0-10 guntas each in Survey Nos.236/AA3/2/1 and 236/AA3/2/2, respectively, situated at Shankarpally Revenue Village and Mandal, Ranga Reddy District. They have purchased the aforesaid property under two registered sale deeds bearing document Nos.2428 and 2429 of 1995, both dated 30.10.1995 executed by one Mr. V. Hanumanth. They have obtained mutation proceedings and pattadar pass books and title deed in their favour.

ii) Thereafter, respondent Nos.5 and 6 sold the aforesaid property to one Mr. Dusa Shiva Prasad, brother of the petitioner, by way of executing a registered Agreement of Sale - cum - General

Power of Attorney (AGPA) bearing No.13280 of 2006, dated 31.10.2006. The said AGPA was cancelled by respondent Nos.5 and 6 by way of executing a registered cancellation deed bearing document No.7731 of 2007, dated 31.05.2007 on the ground of non-payment of sale consideration. On the very same day i.e., 31.05.2007, respondent Nos.5 and 6 have executed a registered AGPA bearing document No.9626 of 2007 in favour of respondent No.4.

iii) Basing on the aforesaid AGPA No.13280 of 2006, dated 31.10.2006, Mr. Dusa Shiva Prasad, brother of the petitioner herein, had executed a registered sale deed bearing No.2509 of 2008, dated 23.06.2008 in favour of the petitioner herein. On the strength of the said sale deed, the petitioner herein had obtained mutation proceedings dated 16.08.2008. The said proceedings were challenged by respondent Nos.4 to 6 by way of filing an appeal under Section - 5B of the Telangana Rights in Land and Pattadar Pass Books Act, 1971 (for short 'ROR Act, 1971'), and the Revenue Divisional Officer, Chevella Division, Ranga Reddy District vide order dated 15.10.2009 in File No.C/444/2009 allowed the appeal and the proceedings in B/1439/2008, dated 16.08.2008 of Tahsildar, Shankarpally - respondent No.3 were set aside. The matter was remanded back to respondent No.3 for fresh inquiry and passing a reasoned order.

iv) On remand, after conducting inquiry, respondent No.3 vide Memo dated 04.05.2010 in File No.B/1439/2008, directed to restore the names of original pattadars i.e., respondent Nos.5 and 6 in respect of the subject property. On remand, before passing of the aforesaid order dated 04.05.2010, the petitioner herein had filed a revision under Section - 9 of the ROR Act, 1971 before the Joint Collector, who in turn, vide order dated 24.05.2011 in file No.D1/1218/2010, dismissed the said revision. Assailing the said order, the petitioner herein had filed a writ petition vide W.P.No.19958 of 2011. Vide order dated 23.07.2021, this Court dismissed the said writ petition, however, it was held that since the remand order is passed in the year 2009, respondent No.3 is directed to conduct fresh inquiry pursuant to the order dated 24.05.2011 as expeditiously as possible, preferably within a period of three (03) months from the date of receipt of copy of said order after giving opportunity of hearing to both side.

v) In compliance with the order dated 24.05.2011 in Case No.D1/1218/2019 of the Joint Collector-II, Ranga Reddy District, the Tahsildar had issued a memo in File No.B/2175/2015, dated 22.03.2016 directing the Village Revenue Officer (VRO) to restore the names of respondent Nos.5 and 6. Thus, their names were restored in revenue record for the year 2015-16 and the same were continued up to June, 2018.

vi) On the complaint lodged by respondent No.4, Tahsildar had inquired into the matter and submitted a report dated 18.07.2020 to the Revenue Divisional Officer, Chevella Division stating that the petitioner got his name entered in revenue records by way of suppression of facts. Respondent Nos.4 to 6 have applied for mutation through Dharani Portal by way of making online application with a request to issue *e*-pattadar pass books. The same was rejected by the District Collector with one word ‘rejected’. Challenging the said rejection order, they have filed a writ petition vide W.P. No.32720 of 2021, and this Court vide order dated 08.12.2021 disposed of the said writ petition directing the District Collector to consider the matter afresh by duly taking into consideration of the order passed by this Court in W.P.No.19958 of 2011, dated 23.07.2021.

vii) In compliance with the said order, respondent No.2 had issued notice dated 19.01.2022 requesting respondent Nos.4 to 6 to submit relevant documents and accordingly they have submitted the documents on 08.02.2022. The same were not considered. Therefore, they have filed a writ petition vide W.P.No.10368 of 2022 and the same was disposed of by this Court vide order dated 28.02.2022 directing respondent No.2 - District Collector to consider the same. The said orders were not complied with. Therefore, they have filed a Contempt Case vide C.C. No.1005 of 2022. Thereafter, on the application submitted by respondent Nos.4 to 6, respondent No.3 had issued pattadar pass books and Nala conversion proceedings dated 05.08.2022. Challenging the said conversion proceedings, the petitioner herein had filed a writ petition vide W.P. No.32135 of 2022 and also another writ petition vide W.P. No.31584 of 2022 seeking a direction to respondent Nos.1 to 3 to enter his name in respect of the subject property in revenue records.

3. **ANALYSIS AND FINDING OF THE COURT**:

i) The aforesaid facts would reveal that the petitioner herein is claiming right over the subject property on the strength of sale deed bearing document No.2509 of 2008, dated 23.06.2008. The said sale deed was executed by his brother, Mr. Dusa Shiva Prasad, on the strength of a registered AGPA bearing document No.13280 of 2006, dated 31.10.2006 executed by respondent Nos.5 and 6 herein. In fact, the said AGPA was cancelled by respondent Nos.5 and 6 by way of registered Cancellation of AGPA bearing document No.7731 of 2007, dated 31.05.2007. Therefore, the petitioner had obtained the said registered sale deed bearing document No.2509 of 2008, dated 23.06.2008 on the strength of the registered AGPA No.13280 of 2006, dated 31.10.2006, which was cancelled by the date of execution of sale deed in favour of the petitioner vide cancellation deed bearing No.7731 of 2007, dated 31.05.2007.

ii) It is relevant to note that there is no challenge to the said cancellation deed bearing document No.7731 of 2007, dated 31.05.2007 executed by respondent Nos.5 and 6 cancelling the AGPA bearing document No.13280 of 2006, dated 31.10.2006 in favour of the brother of the petitioner i.e., Mr. Dusa Shiva Prasad. The said cancellation deed bearing document No.7731 of 2007, dated 31.05.2007 remained unchallenged. Thus, the registered sale deed bearing document No.2509 of 2008, dated 23.06.2008 executed in favour of the petitioner is contrary to the record and it is by way of suppression of fact of cancellation of AGPA dated 7731 of 2007, dated 31.05.2007 by respondent Nos.5 and 6 in favour of brother of the petitioner.

iii) It is also relevant to note that on the strength of sale deed bearing document No.2509 of 2008 dated 23.06.2008, the petitioner had obtained mutation proceedings dated 16.08.2008 from respondent No.3 which was also challenged by way of filing an appeal and revision. The said proceedings were set aside in the aforesaid revision order. The writ petition filed by the petitioner vide W.P. No.19958 of 2011 challenging the said revision order was also dismissed. However, this Court directed Tahsildar to conduct fresh inquiry. On conducting inquiry, the Tahsildar vide memo No.B/2175/2015, dated 22.03.2016 ordered for restoration of names of respondent Nos.4 to 6. A similar recommendation was made by the

Tahsildar to the Revenue Divisional Officer vide proceedings dated 18.07.2020. However, vide order dated 21.06.2021, the Special Tribunal, Ranga Reddy District, considering pendency of W.P. No.19958 of 2011, disposed of the appeal filed by respondent No.4. Respondent Nos.5 and 6 represented by their GPA Holder, respondent No.4, has filed a suit vide O.S. No.74 of 2008 against Smt. Moulana Bee, wife of Md. Shareef and 4 others, seeking for declaration and perpetual injunction. The said suit was decreed on 02.07.2012 by the learned III Additional District and Sessions Judge (FTC), Ranga Reddy District at L.B. Nagar.

iv) It is relevant to note that considering the aforesaid fact that after execution of cancellation deed bearing document No.7731 of 2007, dated 31.05.2007 cancelling the AGPA bearing document No.13280 of 2006, dated 31.10.2006 executed by respondent Nos.5 and 6 in favour of brother of the petitioner, Dusa Shiva Prasad. The petitioner herein had filed a suit vide O.S. No.553 of 2021 against respondent Nos.4 to 6, seeking delivery of possession of the land admeasuring Ac.0-20 guntas in Survey No.236, situated at Shankarpally Village and Mandal, Ranga Redy District in his favour;

to declare the document No.7731 of 2007, dated 31.10.2007 as null and void and not binding on the petitioner and the consequential AGPA with possession bearing document No.9626 of 2007, dated 31.05.2007 as null and void. The said suit is pending. The petitioner herein had filed an interlocutory application to restrain respondent Nos.4 to 6 herein from alienating, encroaching or changing the subject matter in any manner. The said interlocutory application is also pending.

v) During pendency of the aforesaid suit and interlocutory application, the petitioner herein cannot seek for mutation of his name in revenue records in respect of the subject property. He has to pursue the said suit and interlocutory application, on obtaining order from the trial Court, he has to approach respondent Nos.2 and 3 to implement the said order and also to cancel the mutation proceedings and conversion proceedings issued in favour of respondent Nos.4 to 6. Instead of doing so, he has filed the present writ petitions.

4. **CONCLUSION**:

i) As discussed above, during pendency of the aforesaid suit and interlocutory application, the petitioner is not entitled for any relief, much less the relief sought in the present writ petitions. Therefore, both the writ petitions are devoid of merits and the same are liable to be dismissed.

ii) Both the Writ Petitions are accordingly dismissed. However, liberty is granted to both the petitioner and respondent Nos.4 to 6 herein to raise all the contentions and grounds that have been raised in the present writ petitions before the Civil Court in O.S. No.553 of 2021 and on obtaining orders, liberty is granted to the parties to approach respondent Nos.2 and 3 for implementation of the same. In the circumstances of the case, there shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition shall stand closed.

K. LAKSHMAN, J

3rd March, 2023
Mgr