

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

**TUESDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE SRI JUSTICE K. SARATH

WRIT PETITION NO: 45619 OF 2018

Between:

Smt. Chennai Bhagyalakshmi, W/o. Sammaiah, Aged about 58 years, Occ ;
Housewife, R/o. Penchikalpet Village, Elkathurthi Mandal, Karimnagar District.

.....PETITIONER

AND

1. The State of Telangana, Rep. by its Principal Secretary (Revenue), TS Secretariat Buildings, Secretariat, Saifabad, Hyderabad.
2. The District Collector, Karimnagar,
3. The Joint Collector, Karimnagar.
4. The Revenue Divisional Officer, Karimnagar.
5. The Tahasildar, Elkathurthi Mandal, Karimnagar.
6. Mudraboina Rajamouli (Died) per LRs, Mudraboina Madhukar, S/o. Late Rajamouli, Aged about 44 years, Occ. Agriculture, R/o. Penchikalpet Village, Elkathurthi Mandal, Karimnagar District.

.....RESPONDENTS

Petition Under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue writ order or direction more particularly one in the nature of writ of certiorari call for records and set-a-side the orders dated 26-04-2018 made in Revision Petition No. E3/3294/2014 on the file of 3rd Respondent Joint Collector in confirming the orders dated 13-09-2014 made in Appeal No. L/870/2009 on the file of 4th Respondent (RDO) in confirming the orders of resumption of assigned land dated 28-01-2005 in File No. B/3269/04 of 5th Respondent Mandal Revenue Officer as illegal, arbitrary and violative of Article 14, 21 and 300-A of the

Constitution of India and also contrary to the provisions of TS Assigned Lands (Prohibition of Transfers) Act, 1977 and consequently direct the Respondents to consider the application of the Petitioner dated 06-10-2018 to reassign the land admeasuring Ac.4-00 gts., in Sy. No. 282/1 of Penchikalpet Village, Elkathurthi Mandal, Karimnagar District to the Petitioner who is a bonafide purchaser, under the provisions of Section 4(1)(b)(i) of TS Assigned Lands (Prohibition Of Transfers) Act, 1977 and as per the Memo No. 24196/Assn. I(3)/2017-1 dated 18-12-2017.

I.A.NO:1 OF 2018

Petition Under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondents not disposses the Petitioner from her possession of the land admeasuring Ac.4-00 Gts., of Sy. No. 282/1, Penchikalpet Village, Elkathurthi Mandal, Karimnagar District pending consideration of her application dated 06-10-2018 by suspending the operation of the orders dated 26-04-2018 made in Revision Petition No. E3/3294/2014 on the file of Joint Collector, Karimnagar District pending disposal of the above writ petition.

I.A.NO:1 OF 2022

Between

Mudraboina Rajamouli (Died) per LRs, Mudraboina Madhukar, S/o. Late Rajamouli, Aged about 44 years, Occ. Agriculture, R/o. Penchikalpet Village, Elkathurthi Mandal, Karimnagar District.

**.....PETITIONER/RESPONDENT NO.6
IN WP.NO.45619/2018**

AND

1. Smt. Chennai Bhagyalakshmi, W/o. Sammaiah, Aged about 58 years, Occ ; Housewife, R/o. Penchikalpet Village, Elkathurthi Mandal, Karimnagar District.

.....RESPONDENT/WRIT PETITIONER

IN W.P.NO.45619/2018

2. The State of Telangana, Rep. by its Principal Secretary (Revenue), TS Secretariat Buildings, Secretariat, Saifabad, Hyderabad.
3. The District Collector, Karimnagar,
4. The Joint Collector, Karimnagar.
5. The Revenue Divisional Officer, Karimnagar.

6. The Tahasildar, Elkathurthi Mandal, Karimnagar.

.....RESPONDENTS/RESPONDENTS

Petition Under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to vacate the Interim Order dated 18.12.2018 in I.A.No.1 of 2018 in W.P.No.45619 of 2018 and dismiss the above W.P.No.45619 of 2018 with exemplary costs in the interest of Justice.

Counsel for the Petitioner : SRI LOKIREV PREETHAM REDDY

Counsel for the Respondent Nos.1 to 4 : GP FOR REVENUE

Counsel for the Respondent No.6 : SRI S.LAKSHMI KANTH

The Court made the following ORDER

HON'BLE SRI JUSTICE K.SARATH**WRIT PETITION No.45619 of 2018****ORDER:**

Heard learned counsel for the petitioner and learned Assistant Government Pleader for Revenue for the respondent Nos.1 to 5 and learned counsel for the unofficial respondent No.6 and perused the material on record.

2. Learned Counsel for the petitioner submits that the petitioner is absolute owner of land admeasuring Ac:4-00 gts in Sy.No.282/1 of Penchikalpet Village, Elkathurthi Mandal, Karimnagar District, having purchased the same from one Mudraboina Rajamouli, deceased respondent No.6, through two simple sale deeds dated 20.01.1997 and 09.07.1997 and her name was mutated in the revenue records and issued pattadar passbooks and title deeds in her favour.

3. Learned Counsel for the petitioner further submits that while it being so, the vendor of the petitioner has filed application before the Mandal Revenue Officer, Elkathurthi, who in turn issued Memo dated 03.09.2004 under Telangana Assigned Lands (Prohibition of Transfers) Act 1977 (herein after referred to "Act 9 of 1977") to the petitioner stating that the petitioner has obtained patta of the Government land which was assigned to her vendor and directed her to submit necessary documents. Even after submission of her explanation on 05.10.2004, the Mandal Revenue Officer, without conducting any enquiry, passed order vide proceedings No.B/3269/2004 dated 28.01.2005 cancelling the transfer of said land in favour of the petitioner and also cancelled her pattadar passbook and title deeds and directed to issue pattadar passbook in favour of her vendor Mudraboina Rajamouli. Against the said order, the petitioner filed appeal before the

respondent No.4-Revenue Divisional Officer and the same was rejected on 13.09.2014 in Appeal No.L/870/2009 directing the Tahsildar to take possession of the subject land from the petitioner and restore possession to the legal heirs of her vendor. The revision petition filed by the petitioner was also rejected by the respondent No.3-Joint Collector vide order dated 26.04.2018 in Revision Petition No.E3/3294/2014 and challenging the said orders, the instant writ petition is filed.

4. Learned Counsel for the petitioner further submits that the vendor of the petitioner filed suit in O.S.No.136 of 2005 on the file of the Junior Civil Judge, Huzurbad, against the petitioner and her husband with regard to the subject land and obtained injunction. Challenging the same, the petitioner filed C.M.A.No.1 of 2006 on the file of the Senior Civil Judge, Huzurabad and the same

was allowed by setting aside the order of injunction and thereafter, her vendor has withdrawn the said suit. The petitioner also made a representation dated 06.10.2018 to the respondents seeking for reassignment of the subject land as she is a bonafide purchaser on 20.01.1997 and 09.07.1997 well before the stipulated date under Section 4 of the Act 9 of 1977 for a valuable consideration and she is in possession by doing agriculture apart from landless poor person, but no orders have been passed thereon. Learned counsel further submits that the official respondents, at the instance of the respondent No.6, are taking steps to evict the petitioner from the subject land and requested to allow the writ petition by setting aside the impugned orders.

5. Learned Counsel for the petitioner has relied on the following Judgment:

1. J & K Housing Board vs. Kunwar Sanjay Krishan Kaul¹.

6. Learned Assistant Government Pleader for Revenue submits that the Mandal Revenue Officer, after considering the explanation of the petitioner and the material documents, held that the subject land is a Government land assigned to the deceased respondent No.6 and as per the rules laid down under Act 9 of 1977, the transfer of the assigned land is null and void and passed order cancelling the transfer of land in favour of the petitioner and also cancelled her pattadar passbook and title deed and consequently, the appeal as well as revision filed by her were also rejected and there is no need to interfere with the orders impugned and requested to dismiss the writ petition.

¹ (2011) 10 SCC 714

7. Learned Counsel for the unofficial respondent No.6, based on the counter averments, submits that the subject property was actually situated within Sy.No.282 of Penchikalpet Village, Elkathurthi Mandal, Karimnagar District and subsequently, Sy.No.282 was allotted in respect of the land in question as Sy.Nos.282/1 and 282/2. He further submits that the deceased respondent No.6 never sold the subject land to the petitioner under the alleged simple sale deeds and in order to grab the land, the petitioner in collusion with her husband got entries on her name in the revenue records. He further submits that after knowing the corrections made in the revenue records, the deceased respondent No.6 has filed application before the Mandal Revenue Officer and after conducting detailed enquiry, cancelled the transfer of subject land in favour of the petitioner and also cancelled her pattadar passbooks and title deeds invoking the jurisdiction under Section 4(1) of the Act 9 of 1977 and

thereafter, appeal and the revision filed by her were also rejected. Learned counsel further submits that there was no sale between the deceased respondent No.6 and the petitioner nor any possession was delivered in favour of the petitioner and the alleged transfer itself is contrary to Section 3 of the Act 9 of 1977.

8. Learned Counsel for the respondent No.6 further submits that as far as the suit in O.S.No.136 of 2005 filed by the deceased respondent No.6 is concerned, it is innocuous suit for injunction and as such, he did not proceed further since the land in question is covered under the provisions of the Act 9 of 1977. He further submits that as of now, the respondent No.6 is in actual physical possession and enjoyment of the subject land and there are no merits in the writ petition and requested to dismiss the writ petition.

9. After hearing both sides and perusal of the material on record, this Court is of the considered view that the petitioner is challenging the orders passed by the respondent No.3-Joint Collector in the revision petition filed by her in confirming the orders passed by the respondent No.4-Revenue Divisional Officer, wherein the earlier orders passed by the respondent No.5 dated 28.01.2005 were confirmed under the Act 9 of 1977. The case of the petitioner is that she has purchased the land admeasuring Ac.4-00 gts in Sy.No.282/1 situated at Penchikalpet Village, Elkathurthi Mandal, Karimnagar District, from the deceased respondent No.6 through sada sale deeds dated 20.01.1997 and 09.07.1997 and her name was also mutated in the revenue records and pattadar passbook and title deeds were issued in her favour.

10. Originally the subject land belongs to the Government and the Government has assigned the said land to the deceased respondent No.6 vide proceedings No.A7/6032/77 dated 31.01.1978 and thereafter, the petitioner has purchased the property from the original assignee in the year, 1997. The original assignee i.e., the deceased respondent No.6, has filed a petition before the respondent No.5 stating that he had obtained debt of an amount of Rs.50,000/-from his brother-in-law namely Chenni Sammaiah by keeping the subject land as pledge, but the said Sammaiah had illegally transferred the said land to his wife i.e., petitioner herein, and requested the respondent No.5 to restore the possession of assigned land in his favour. Basing on the said petition, the respondent No.5 issued Memo to the petitioner on 03.09.2004 and the petitioner has submitted her explanation on 05.10.2005. After considering the said explanation, the respondent No.5 has passed order vide

proceedings No.B/3269/04 dated 28.01.2005 declaring that the transfer of title of the subject land effected in favour of the petitioner ceases to be in force in respect of the assigned land and revived the title in favour of the deceased respondent No.6. Thereafter, the petitioner has not taken any steps to challenge the said proceedings by filing appeal till 2009.

11. The petitioner filed appeal before the respondent No.4 challenging the proceedings No.B/3269/2004 dated 28.01.2005 without explaining the reasons for delay and without filing any condone delay petition in the year, 2009. In the meantime, the deceased respondent No.6 has filed suit in O.S.No.136 of 2005 on the file of the Junior Civil Judge, Huzurabad, for perpetual injunction. Initially, the trial Court has granted interim order on 06.10.2005 and against the said order, the petitioner has preferred C.M.A.No.1 of 2006 and the same was allowed

by setting aside the injunction order on 21.11.2006. Basing on the said Judgment and Decree, the respondent No.5 issued memo No.B/89/2008 dated 18.04.2008 instructing the Village Revenue Officer to record the name of the petitioner in the revenue records. Against the said proceedings, the respondent No.6 has filed appeal No.D/11670/2012 before the respondent No.4-Revenue Divisional Officer.

12. The appeal filed by petitioner against the order dated 28.01.2005 in the year, 2009 and the appeal filed by the respondent No.6 against the Memo issued by the respondent No.5 dated 18.04.2008 were clubbed together and passed common order on 13.09.2014 dismissing the appeal filed by the petitioner and directed the authorities concerned to restore the possession of the subject property in favour of the respondent No.6. Against the said order, the petitioner filed revision before the

respondent No.3 in Revision Petition No.E3/3294/2014. The respondent No.3, after hearing both the sides, has rejected the contention of the petitioner and dismissed the revision petition. Against the said orders, the instant writ petition is filed by the petitioner.

13. The Learned Counsel for the petitioner mainly contended that the official respondents have not considered the Section 4(b)(i) of the amendment to the Act 9 of 1977 as the petitioner is a landless poor and purchased the property from the original assignee under sada sale deeds and she is entitled to reassign the said land as per the amendment of the Act 9 of 1977.

14. In the instant case, basing on the complaint made by the deceased respondent No.6, the respondent No.5 has passed orders cancelling the pattadar passbook and title deeds and also declared the transaction between the petitioner and the deceased respondent No.6 as void by

proceedings No.B/3269/2004 dated 28.01.2005. The petitioner without challenging the said proceedings kept quiet for more than 5 years, but without filing any petition for condonation of delay, she has filed appeal in the year, 2009. Now, the petitioner taking advantage of the Amendment Act 21 of 2008 has stated that her case has to be considered under Section 4(b)(i) of the Act 9 of 1977. As the Amendment Act is not retrospective effect, the transaction between the petitioner and the respondent No.6 was declared as void by the competent authority in the year, 2005. The question of considering the case of the petitioner under the Amendment Act does not arise and revisional authority has rightly rejected the contention of the petitioner. Moreover, as per the records, there is a dispute with regard to the transaction between the petitioner and the respondent No.6.

15. The other contention of the learned counsel for the petitioner is that the deceased respondent No.6 has filed suit for injunction and obtained interim orders and the Appellate Court has set aside the injunction order in favour of the petitioner and subsequently the said suit was not pressed by the deceased respondent No.6 and in view of the same, the petitioner is in possession of the property as a bonafide purchaser and the respondents have to consider her case. Once the petitioner admitted that she has purchased the subject property in violation of Act 9 of 1977 and the competent authority has cancelled her pattadar passbook and title deeds, the injunction suit is not binding on the respondents. Moreover, the appellate authority has rightly passed orders directing the authorities to resume the land in favour of the legal heirs of the original assignee.

16. The Judgment relied on by the learned counsel for the petitioner in **J & K Housing Board's case** (cited 1 supra) is not apply to the facts of this case as Section 4(b)(i) of the Act 9 of 1977 was inserted after the amendment in the year, 2008 and in the instant case, the preliminary authority has passed the orders in the year, 2005. In view of the same, the question of reconsidering the assignment of the land to the petitioner in the conclusive proceedings does not arise.

17. The contention of the learned counsel for the unofficial respondent No.6 is that once the transaction is in violation of the Act 9 of 1977, the question of re-assignment of the subject property does not arise and the respondents have also restored the possession of the subject property in favour of the respondent No.6 vide proceedings No.B/3269/2004 dated 16.07.2018 i.e., before filing of the writ petition and the same was not

challenged in the instant writ petition. Admittedly, the petitioner has not disclosed the same in the writ affidavit and not filed any reply to dispute the said facts.

18. In the above circumstances, there is no illegality or infirmity in the impugned orders passed by the official respondents under the Act 9 of 1977 warranting interference by this Court.

19. In view of the above findings, the Writ Petition is dismissed as devoid of merits. No order as to costs.

20. Miscellaneous applications, if any pending in this writ petition, shall stand dismissed.

SD/-A.SRINIVAS REDDY
ASSISTANT REGISTRAR

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SECTION OFFICER

To

1. Two CCs to GP FOR REVENUE, High Court for the State of Telangana at Hyderabad. [OUT]
2. One CC to SRI LOKIREV PREETHAM REDDY, Advocate [OPUC]
3. One CC to SRI S.LAKSHMI KANTH, Advocate (OPUC)
4. Two CD Copies

SA
BSK

Kp

HIGH COURT

DATED:31/12/2024

ORDER

WP.No.45619 of 2018



**DISMISSING THE W.P
WITHOUT COSTS.**

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kp

31/1/25