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APHC010468372017

IN THE HIGH COURT OF ANDHRA PRADESH

AT AMARAVATI **[3606]**

(Special Original Jurisdiction)

MONDAY, THE 26th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR CHINTALAPUDI

CIVIL REVISION PETITION NO: 5115/2017

Between:

1. RAVURI GOVINDA RAJU, GUNTUR DIST, S/O. PURNACHANDRA RAO, AGED 36 YEARS, R/O. VARAVAKATTA, NARASARAOPET TOWN & MANDAL, GUNTUR DISTRICT.

...PETITIONER

AND

1. RAVUTLA KOTESWARA RAO GUNTUR DIST, S/O. GOVINDAIAH, AGED 58 YEARS, R/O. DOOR.NO.5-5-79/13, PATHURU, NARASARAOPET TOWN & MANDAL, GUNTUR DISTRICT.

...RESPONDENT

Petition under Article 227 of the Constitution of India, praying that in the circumstances stated in the grounds filed herein, the High Court may be pleased to Aggrieved by the Order and Decree dated: 29-06-2017 made in EP.No.07/2017 in OS.No.179/2008 on the file of the Court of Principal Senior Civil Judge, Narasaraopet dismissing the EP only on the ground that the EP schedule property was a patty land granted to the respondent/JDR and there is a prohibition under Act 9/1977 of Andhra Pradesh Assigned Lands(Prohibition of Transfers) Act, 1977 and it cannot be alienated and he

has no salable interest in the EP schedule property, the above named petitioner humbly begs to present this Memorandum of Civil Revision Petition

IA NO: 2 OF 2017(CRPMP 27755 OF 2017)

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

Counsel for the Petitioner:

1. V S K RAMA RAO

Counsel for the Respondent:

1. T V SRI DEVI

The Court made the following:

THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR CHINTALAPUDI

CIVIL REVISION PETITION NO: 5115 OF 2017

ORDER:

The revision is directed against the order dated 29.06.2017 passed in E.P.No.7 of 2017 in O.S.No.179 of 2008 by the Principal Civil Judge (Senior Division), Narasaraopet, dismissing the Execution Petition. The revision petitioner is the decree-holder (D.Hr.), and the respondent is the judgment-debtor (J.Dr.).

2. Heard Sri V.S.K. Rama Rao, learned counsel for the petitioner and Smt. T.V. Sri Devi, learned counsel for the respondent.

Brief Facts of the Case:

3. The revision petitioner filed O.S.No.179 of 2008 before the trial Court to recover the amount due from the respondent under a mortgage of the E.P. schedule property. After contest, the trial Court partly decreed the suit by passing a preliminary decree in favour of the revision petitioner. Thereafter, the revision petitioner filed I.A.No.577 of 2015 seeking a final decree in terms of the preliminary decree, and final decree was passed.

4. The respondent did not pay the decretal amount even after the Court passed the final decree. The revision petitioner therefore filed the E.P. to execute the decree by bringing the mortgaged E.P. schedule property to sale to realise the decretal amount. The respondent appeared in the execution proceedings and objected to execution against the schedule property on the ground that it was assigned land. He contended that he had no saleable interest in the property and relied on a certificate issued by the Joint Sub-Registrar, Narasaraopet, stating that the property was prohibited from registration.

5. On considering the facts and the defence raised in the execution proceedings, the executing Court observed that the Government had assigned the E.P. schedule property in Survey Nos.715/1 and 715/15 to the respondent on 14.08.1983 and that the property was prohibited from registration and alienation. The trial Court considered the decision in **Vemula Ankamma Rao v. Nomula Prasada Rao**[1], which the revision petitioner had relied on. The learned Judge held that the decision did not apply because the facts were different. According to the learned Judge, the property in that case had been brought to execution after ten years from the date of assignment, whereas the revision petitioner had not produced any record in the present case to show that the property could be alienated after ten years.

6. The trial Court observed that the property had been mortgaged in favour of the revision petitioner, but no document had been produced to show that the prohibition against alienation lasted only for ten years. The respondent relied on a certificate issued by the registration authorities stating that the property in Survey Nos.715/1 and 715/15 could not be registered. As the revision petitioner had produced no material to establish that the respondent had a saleable interest or that execution could proceed against the property, the learned Judge dismissed the Execution Petition. The revision petitioner challenges that order in this revision.

Arguments:

7. Sri V.S.K. Rama Rao, learned counsel for the revision petitioner submitted that, the trial Court had improperly dismissed the E.P. He argued that the assignment patta granted to the respondent prohibited alienation of the assigned land only for ten years. The Government granted the assignment in 1983, and the ten-year prohibition against

[1] C.R.P.No.4321 of 2011 decided on 29.01.2016

alienation or mortgage expired in 1993. The respondent executed the mortgage of the schedule property in 1998, well after that period had expired.

8. The revision petitioner obtained the preliminary decree on 17.02.2011 and the final decree on 30.11.2015, and filed the Execution Petition in 2017. Learned counsel further submitted that the respondent had objected before the trial Court that the property was assigned land. The trial Court framed specific issues, including Issue No.2 concerning the assigned land. The respondent did not challenge either the preliminary decree or the final decree, even though the trial Court passed the final decree despite the objection that the property was Government land. The respondent has now raised the same objection in the execution proceedings.

9. Learned counsel further submitted that the respondent had raised this issue during the trial and that the executing Court could not reopen it in the present proceedings. He relied on **Venkataramanappa and others v. T.M. Chalapathi**[2]. In that case, this Court considered whether assigned land could be alienated and held that, after ten years had elapsed from the grant of the patta, the judgment-debtor had acquired a saleable interest in the schedule property. The property could therefore be brought to sale.

10. According to learned counsel, the principle laid down in **Venkataramanappa**'s case cited supra applies because the respondent executed the mortgage after the ten-year restriction had expired. As the respondent failed to repay the loan, the revision petitioner sought to bring the property to sale in execution. Learned counsel argued that the learned Judge misinterpreted the applicable provisions and wrongly placed on the revision petitioner the burden of proving that the property

[2] C.R.P.No.4668 of 2004, reported in 2007 (6) ALD 81

was saleable. He therefore sought to have the impugned order set aside and the revision petition allowed.

11. Smt. T.V. Sri Devi, learned counsel for the respondent submitted that, the trial Court had correctly found that the respondent had no saleable interest in the schedule property because it was assigned land. He argued that the law prohibited alienation and that no one could sell the property covered by the relevant survey numbers. According to him, the decision relied on by the revision petitioner do not apply to the present case. Although the respondent had no other property from which to realise the decretal amount, the schedule property could not be alienated; because it appeared in the list of prohibited properties. He therefore submitted that the Court could not execute the decree by selling the schedule property and sought dismissal of the revision petition.

Discussion:

12. I have heard learned counsels for both sides and perused the material on record.

13. The revision petitioner succeeded in the suit, obtained a preliminary decree and thereafter applied for a final decree. The trial Court allowed that application and passed the final decree in favour of the revision petitioner. The respondent did challenge either preliminary or final decree. The decrees therefore, crystallised the revision petitioner's right to realise the decretal amount in accordance with law.

14. The revision petitioner relied on the mortgage and, as a secured creditor, filed the Execution Petition to recover the amount advanced to the respondent by selling the mortgaged property.

15. The E.P. describes the schedule property as follows:

> "Property situated in Guntur District, Narasaraopet Registration District, Narasaraopet Sub Registration District, Narasaraopet Municipal Area, Pathuru locality,

> near Dr Oguri Kotaiah's Hospital, Narasaraopet Municipal Old Ward No.1, TS Nos. 715/1 and 715/15, Plot No.37 bounded by: East: Rautla Veera Appaiah's house - 60 feet; South: Municipal Road - 16 feet; West: Pedukandla Venkata Ratnachary's House - 60 feet; North: Drainage Canal - 16 feet. Within the above boundaries an extent of 106-66 sq. yards = 89-17 sq. meters of vacant site and in it a daba house was constructed."

16. The respondent resisted the Execution Petition with a counter. He contended that the Government had assigned the property in Survey Nos.715/1 and 715/15 to him on 14.08.1983. According to him, the property could not be registered or alienated because it was assigned land and he had no saleable interest in it. The certificate issued by the Joint Sub-Registrar also stated that registration of the schedule property was prohibited.

Assignment Patta and Conditions:

17. A copy of the patta granted to the respondent is on record. The translated version of Condition No.9 of the patta reads as follows:

> "There should be a right to the Government to take back the site allotted to the assignee, if it is transferred to others or sold or lease or mortgage with out completion of 10 years from the date of issuance of the patta or without taking prior permission of the Revenue Divisional Officer in writing, but this condition should not be on development or taking loans from the Banks by mortgaging the same. In this regard, the powers must be with the Revenue Divisional Officer to take back the site and re-entry in to the same."

18. Condition No.9 provides that, if the respondent transfers, leases or mortgages the assigned land before the expiry of ten years from the date of the patta without obtaining the prior written permission of the Revenue Divisional Officer, the Government may resume the site. The condition excludes mortgages raised from banks for development. Thus, subject to that exception, the patta restricts transfer, alienation or

mortgage during the ten-year period unless the assignee obtains the Revenue Divisional Officer's prior written permission.

Relevant Statutory Provisions and Amendments:

19. The present matter concerns the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (Act No.9 of 1977), as subsequently amended (hereinafter, "the Act"). Section 3 prohibits the transfer of assigned lands. The relevant provisions of Section 3 are reproduced below:

Section 3(1):

> "(1) Where, before or after the commencement of this Act any land has been assigned by the Government to a landless poor person for purposes of cultivation or as a house-site then, notwithstanding anything to the contrary in any other law for the time being in force or in the deed of transfer or other document relating to such land, it shall not be transferred and shall be deemed never to have been transferred; and accordingly no right or title in such assigned land shall vest in any person acquiring the land by such transfer."

Section 3(2):

> "(2) No landless poor person shall transfer any assigned land, and no person shall acquire any assigned land, either by purchase, gift, Lease (except in the case of Lease to the Andhra Pradesh Green Energy Corporation Ltd., for use as deemed fit and including for usage of non-agriculture purpose), mortgage, exchange or otherwise."

Section 3(2A):

> "(2A) No assignee shall transfer any assigned house site, and no person shall acquire any assigned house site, either by purchase, gift, Lease (except in the case of Lease to the Andhra Pradesh Green Energy Corporation Ltd., for use as deemed fit and including for usage of non-agriculture purpose), mortgage, exchange or otherwise, till completion of the period of 20 years from the date of assignment."

Section 3(3):

> "(3) Any transfer or acquisition made in contravention of the provision of sub-section (1) or sub-section (2) or sub-section (2A) shall be deemed to be null and void."

Section 3(4):

> "(4) The Provisions of this section shall apply to any transaction of the nature referred to in sub-section (2) in execution of a decree or order of a civil court or of any award or order of any other authority."

20. Before the amendment, the original 1977 Act prohibited the transfer of land assigned by the Government to landless poor persons for cultivation or as house sites. Any transfer of such land was deemed never to have taken place, and no right or title vested in the transferee. The Act prohibited the transfer or acquisition of assigned land by purchase, gift, lease, mortgage, exchange or otherwise.

21. The Andhra Pradesh Assigned Lands (Prohibition of Transfers) (Amendment) Ordinance, 2023 (Andhra Pradesh Ordinance No.9 of 2023), promulgated on 27.07.2023 and published on 31.07.2023, subsequently amended Section 2(1) of the Act by prescribing a period of twenty years for lands assigned for agricultural purposes and ten years for house sites. The relevant portion reads as follows:

> "within a period of twenty (20) years from the date of assignment in the case of lands assigned for agricultural purpose, and within a period of ten (10) years from the date of assignment in case of house sites"

22. The Ordinance also substituted Section 3(2) to restrict the transfer of assigned agricultural lands during the twenty years following the date of assignment. The relevant provisions read as follows:

> "(i) No landless poor person or his / her legal heir, shall transfer any land assigned for agricultural purpose, and no person shall acquire any such assigned land, either by purchase, gift, lease (except in the case of Lease to the

> Andhra Pradesh Green Energy Corporation Ltd., for use as deemed fit and including for usage of non-agriculture purpose), mortgage, exchange or otherwise, within a period of twenty (20) years from the date of assignment."
>
> "(ii) After expiry of the above period of twenty years, such assigned land may be alienated by the assignee or his / her legal heirs as per the procedure prescribed, without further reference to the Government."

23. Section 3(4) expressly applies Section 3 to transactions of the nature referred to in sub-section (2), including transactions in execution of a decree or order of a civil Court. The question whether the schedule property can be brought to sale must, therefore, be considered with reference to the Act, the conditions of the patta and the amendments applicable to the assignment in question.

24. Condition No.9 of the patta provides for a ten-year restriction on alienation. The schedule property is Plot No.37 in Survey Nos.715/1 and 715/15, which the Government allotted to the respondent for construction of a house. The effect of the condition after expiry of ten years must, however, be considered along with the applicable provisions of the Act.

25. The patta requires the assignee to construct a house within six months from its issue on 14.08.1983. If the assignee fails to construct or occupy the house within the prescribed period, the consequences specified in the patta would follow. No specific objection alleges that the assignee failed to construct a house on Plot No.37 in Survey Nos.715/1 and 715/15. Indeed, the E.P. schedule describes the property as a vacant site on which a daba house was constructed. The property is therefore a house site with a house, not agricultural land.

26. Condition No.9 specifies a ten-year restriction on alienation or sale. In **Venkataramanappa and others v. T.M. Chalapathi**[3], this Court considered whether an assignee acquired a saleable interest after ten years. Paragraph 9 states:

> "There was a prohibition clause under condition No.9 that the property shall not be alienated or otherwise disposed of to any person within a period of ten years. If so, the Government would take back the property without giving any compensation for the constructions or improvements made on it. RW-2, the Deputy Mandal Revenue Officer, also conceded that after completion of ten years, the assignee gets salable interest over the property."

27. The Government assigned the property on 14.08.1983, and the respondent executed the registered mortgage deed on 16.07.1998, after expiry of the ten-year period specified in Condition No.9. The revision petitioner therefore contends that the respondent had acquired a saleable interest and could validly mortgage the property. The said contention has to be determined in the light of the statutory provisions governing assigned house sites, including the provisions applicable to a transaction in execution of a decree.

Preliminary Decree and Final Decree Proceedings:

28. During the preliminary-decree proceedings, the trial Court framed an issue as to whether the mortgaged property was assigned land. The trial Court noted that the Government had granted the patta to the respondent on 14.08.1983, but that the respondent had not produced the assignment patta in the suit. The trial Court did not specifically decide the issue and left it open.

29. The trial Court partly decreed the suit while leaving that issue open. During the final-decree proceedings, the respondent again objected that the property was Government land and that the Government had issued

[3] C.R.P.No.4668 of 2004, reported in 2007 (6) ALD 81

a patta in his favour. The trial Court framed the point whether the petitioner was entitled to a final decree in terms of the preliminary decree dated 17.02.2011. The finding on that point in I.A.No.577 of 2015 reads as follows:

> "Except the allegation in the counter, there is no proved evidence on behalf of the respondent to prove that the petition schedule property is a government land. So, the objection of the respondent is unproved and untenable. So, there is no tenable objection in the counter of the respondent for passing of the final decree. Hence, the petitioner is entitled for final decree in terms of preliminary decree dt.17.2.2011.
>
> In the result, the petition is allowed, final decree is passed in terms of the preliminary decree dt.17.2.2011."

30. Neither party appears to have produced the assignment patta during the preliminary-decree or final-decree proceedings. Although the respondent contended that the Government had assigned the property and that it could not be alienated, he did not produce the patta in support of that objection. The trial Court passed the preliminary and final decrees on the material then available, but left open the issue whether the property was assigned land.

31. The parties do not dispute that the Government allotted the property to the respondent as a house site and that a daba house was constructed on it. The respondent produced the assignment patta only during execution and relied on it to resist the decree. Though an executing Court cannot go behind the decree, it must consider a properly raised objection as to whether the decree can lawfully be executed against the schedule property.

32. The respondent has not explained why he did not produce the assignment patta during the earlier proceedings. The executing Court was to examine the objection, with applicable statutory provisions.. The objection cannot be rejected merely because the patta was produced at

the execution stage; nor can execution be refused solely on that basis without determining the legal effect of the patta and the Act.

33. The learned Judge dismissed the E.P. on the ground that the schedule property was assigned land and that the Joint Sub-Registrar's certificate showed that it was prohibited from registration. The learned Judge also found that the revision petitioner had not produced material to establish that the restriction under Condition No.9 was limited to ten years. The effect of the patta and the certificate must be assessed in the light of the governing statutory provisions.

34. It is relevant that neither the assignment patta nor the Joint Sub-Registrar's certificate was produced during the preliminary-decree or final-decree proceedings, and that the trial Court had left open the issue concerning assignment. Their production during execution therefore requires the executing Court to consider the objection under Section 47 CPC, without going behind the decree and without overlooking any statutory bar to the proposed sale.

G.O.Ms.No.306 dated 25.05.2026:

35. The Government subsequently issued G.O.Ms.No.306, Revenue (Lands-I) Department, dated 25.05.2026, permitting the registration of documents relating to assigned house sites with houses constructed on them, subject to the conditions prescribed in the G.O. Paragraphs 2 and 3 state as follows:

Paragraph 2:

> "2. In the reference 6th read above, the Commissioner and Inspector General of Registration and Stamps (C&IGRS) had brought to the notice of the Government that Registering Officers are raising doubts in the matter of admission of documents relating to assigned house sites with houses constructed thereon, more particularly in cases where such properties continue to figure in the Prohibited Properties List maintained under Section 22-A of the Registration Act, 1908. The issue of denial of

> registration on account of inclusion in the prohibited list, despite the completion of ten (10) years from the date of assignment, has been causing hardship to the genuine beneficiaries. The matter was, therefore, examined by the Government."

Paragraph 3:

> "3. The Government, after careful examination of the matter and in exercise of the powers vested in them, hereby permit registration of documents relating to assigned house sites along with houses constructed thereon, subject to strict compliance with the following conditions:"

36. The G.O. prescribes conditions for registration, including production of the original assignment patta or a certified copy, proof that ten years have elapsed from the date of assignment, a House Tax Receipt or other record evidencing construction of a house, identification of the property by plot and survey numbers, and verification that the executant is the original assignee or the assignee's legal heir. It permits registration, subject to those conditions, notwithstanding inclusion in the list of prohibited properties under Section 22-A of the Registration Act, 1908. The scope of the G.O. must be kept distinct from the question whether a mortgage or court-ordered sale is permissible under the Assigned Lands Act.

37. In the present case, Plot No.37 in Survey Nos.715/1 and 715/15 was assigned to the respondent for construction of a house, and the E.P. schedule records that a house was constructed on the site. The mortgage was executed after expiry of the ten-year period specified in the patta. Since the executing Court relied on the Joint Sub-Registrar's certificate, it must now consider whether the schedule property satisfies the conditions of G.O.Ms.No.306 dated 25.05.2026 and what legal effect, if any, the G.O. has on the objection to execution.

38. The executing Court has to separately determine whether the respondent could mortgage or otherwise transfer the property after

expiry of the period specified in the patta, having regard to the applicable provisions of the Act.

Conclusion:

39. The respondent did not produce the assignment patta or the Joint Sub-Registrar's certificate during the preliminary-decree or final-decree proceedings, and the trial Court left open the issue whether the property was assigned land. At the execution stage, the executing Court cannot go beyond the decree; it has to decide under Section 47 CPC whether the decree can lawfully be executed by sale of the schedule property, having regard to the terms of the patta and the applicable statutory provisions.

40. Section 3(4) of the Act refers transactions undertaken in execution of a decree or order of a civil Court. The executing Court shall therefore examine the applicability of that provision, the restriction in Condition No.9 of the patta, the amendments applicable to the assignment and the effect of G.O.Ms.No.306 dated 25.05.2026. Before ordering or proceeding with a sale under Order XXI Rules 64 and 66 CPC, the executing Court has to record a reasoned finding on permissibility of proposed sale is permissible in law. The G.O., which concerns registration subject to prescribed conditions, may not by itself be treated as conclusive of the question of saleability or executability.

41. The observations are made only in this application. It is made clear that execution Court is at liberty to proceed as per due procedure of law without getting influenced by the findings of this Court.

Result:

42. In the result, the Civil Revision Petition is allowed. The order dated 29.06.2017 passed in E.P.No.7 of 2017 in O.S.No.179 of 2008 by the Principal Civil Judge (Senior Division), Narasaraopet, is set aside. The

Execution Petition is restored to the file of the executing Court for fresh consideration in accordance with law independently.

No order as to costs.

All pending interlocutory applications, if any, stand closed.

Interim order granted earlier is hereby vacated.

PURUSHOTTAM KUMAR CHINTALAPUDI, J

Dt: 26.10.2026
DSV