

(2012) 08 AP CK 0008
In the Andhra Pradesh High Court
Case No : Writ Petition No. 2176 of 2012

Dharma Teja and Another

APPELLANT

Vs

The Revenue Divisional Officer, Chevella Division, at Attapur,
Ranga Reddy District, and Others

RESPONDENT

Date of Decision : 07-08-2012

Acts Referred:

Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 — Section 5, 5(3),
5(5), 8, 9
Civil Procedure Code, 1908 (CPC) — Order 21 Rule 97, Order 21 Rule 99

Citation : (2012) 08 AP CK 0008

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : P. Govind Reddy, for the Appellant; A. Pulla Reddy, for R-3, for the Respondent

Judgement

Hon"ble Mr Justice L. Narasimha Reddy

1. The petitioners purchased an extent of Ac.1.02 guntas of land in Sy. No. 2/A of Nanakramguda Village, through a sale deed dated 07-11-2002 executed by, as many as 33 individuals, who are said to be the legal descendants of the original owner of the land. The names of the petitioners were entered in the revenue records, and it is stated that the petitioners are in possession and enjoyment of the property. The vendors 1 and 2, by name, P. Ravi Singh and P. Rajesh Singh are said to have entered into an agreement of sale with one, Sri R. Jairam Singh, the 3rd respondent herein, for sale of the said property on 13-06-2002. On the basis of that agreement of sale, the 3rd respondent filed O.S. No. 2178 of 2007 in the Court of I Additional Senior Civil Judge, Ranga Reddy District, at L.B. Nagar, for specific performance of agreement of sale. The suit was decreed ex-parte, on 31-12-2007. Based on that, the 3rd respondent filed E.P. No. 48 of 2008. Since the judgment-debtors did not come forward to execute the sale deed, the Executing Court itself executed a sale deed in favour of the 3rd respondent on 25-10-2008.

2. On the basis of the decree obtained by him, the 3rd respondent filed an application before the Tahsildar, Serilingampally Mandal, the 2nd respondent herein, with a request to enter his name in the revenue records and to issue pattadar pass book and title deeds. On coming to know that the 3rd respondent obtained decree, in respect of the land purchased by them, the petitioners filed E.A. No. 203 of 2009, under Rules 97 and 99 of Order XXI C.P.C. The E.A was dismissed. In W.P. No. 18474 of 2009, this Court is said to have directed maintenance of status quo, after noticing that the petitioners filed O.S. No. 2176 of 2009 in the Court of VIII Additional Senior Civil Judge, Ranga Reddy, for the relief of cancellation of the sale deed dated 25-10-2008, executed in favour of the 3rd respondent.

3. The 2nd respondent passed orders dated 18-07-2011, directing that the name of the 3rd respondent be entered in the revenue record in respect of the said land. Aggrieved by that order, the petitioners filed an appeal u/s 5(5) of the A.P. Rights in Land and Pattadar Pass Books Act, 1971 (for short "the Act"), before the Special Grade Deputy Collecto and Revenue Divisional Officer, Chevella Division, the 1st respondent herein. Through order dated 17-12-2011, the 1st respondent disposed of the appeal, by advising the parties to approach the Civil Court for redressal of their grievance. The petitioners feel aggrieved by the said order.

4. The petitioners contend that there was absolutely no basis for the 2nd respondent in entering the name of the 3rd respondent on the strength of an ex parte decree. They contend that though the 1st respondent found that the 2nd respondent committed mistake in passing the order dated 18-07-2011, without reference to the earlier record, he did not grant any relief. It is also stated that the 2nd respondent did not comply with the provisions of law, as regards service of notice.

5. The 1st respondent filed a counter-affidavit. According to him, the 2nd respondent committed mistake in passing the order dated 18-07-2011, since no reference was made to the file, pertaining to the making of entries in favour of the petitioners.

6. In his counter-affidavit, the 3rd respondent stated that the writ petition is not maintainable, since the petitioners have already availed the remedy, by filing a suit, as provided for u/s 8 of the Act. He further submits that he approached this Court by filing a writ petition, and has withdrawn the same, when it was pointed out that he has already filed a suit, in O.S. No. 2178 of 2007 in the Court of I Additional Senior Civil Judge, Ranga Reddy District, at L.B. Nagar, for specific performance of agreement of sale.

7. Heard Sri P. Govind Reddy, learned counsel for the petitioners, learned Government Pleader for Revenue and Sri A. Pulla Reddy, learned counsel for the 3rd respondent.

8. The petitioners challenge the orders dated 18-07-2011, passed by the 2nd

respondent, and the one, dated 17-12-2011, passed by the 1st respondent, in the appeal. The principal grievance of the petitioners is that the 2nd respondent did not follow the procedure prescribed by law. Extensive reference is made to sub-section (3) of Section 5 of the Act. That provision deals with the manner in which, notices are to be issued, whenever the recording authority proposes to make alterations in the revenue records. It is true that the provision mandates that apart from issuing a general notice, the recoding authority must issue a notice to the person, whom he considers to be adversely effected. Since the names of the petitioners were already existing on the record, they answer that description, and were entitled to be issued a notice.

9. The petitioners can be said to have suffered any detriment, if only they did not have any notice of the proceedings, before the 2nd respondent initiated on the application, submitted by the 3rd respondent. It is not in dispute that the petitioners became aware of the proceedings on the basis of the general notice and have submitted their objections, pointing out their grievance. In addition to that, before the 2nd respondent has passed any orders, the petitioners approached this Court by filing W.P. No. 18474 of 2009 for a Writ of Mandamus, to declare the action of the 2nd respondent in trying to dispossess them, by deleting their names in revenue records, pertaining to the land in Sy. No. 2/A, admeasuring 8 guntas, and Sy. No. 3, admeasuring 34 guntas, respectively, totalling to Ac.1.02 guntas, situated in Nanakramguda Village, Ranga Reddy District. The writ petition, however, was dismissed as infructuous, on 13-06-2011, on the ground that the petitioners have already instituted a suit, on the same subject-matter. The order reads,

It is reported that in view of filing of a suit on the very same subject matter, the writ petition has become infructuous.

Recording the same, the writ petition is dismissed as infructuous. The interim order, dated 02-09-2009, shall stand vacated. No costs.

10. Taking note of the fact that the writ petition was dismissed as infructuous, the 2nd respondent proceeded to decide the matter on the basis of the sale deed, executed in favour of the 3rd respondent, by the Executing Court.

11. The petitioners filed an appeal before the 1st respondent, against the orders dated 18-07-2011, passed by the 2nd respondent; together with an application for suspension of the order under appeal. Alleging that the application was not taken up for hearing, they filed W.P. No. 26303 of 2011. That writ petition was disposed of on 20-09-2011, directing that the application filed for suspension of the order dated 18-07-2011 be taken up for hearing within a period of 10 days. The 1st respondent has taken up the appeal itself and disposed of the same on 17-12-2011.

12. Being an appellate authority, the 1st respondent was required to be specific and ought to have acted in terms of Section 5(5) of the Act. Curiously enough, on the one hand, he expressed his displeasure about the manner in which the

2nd respondent has passed the orders dated 18-07-2011, and on the other hand, has refused to interfere with the same. He has chosen to direct the parties to resolve their disputes in a Civil Court, obviously by keeping Section 8 of the Act, in mind. He failed to realise that much before the 2nd respondent passed the orders, dated 18-07-2011, the petitioners have filed O.S. No. 2176 of 2009 in the Court of VIII Additional Senior Civil Judge, Ranga Reddy District at L.B. Nagar for the relief of cancellation of the decree, in O.S. No. 2178 of 2007 passed by the Court of I Additional Senior Civil Judge, Ranga Reddy, which constituted the root cause for the proceedings.

13. The Act provides for the mechanism, for making or alteration in the revenue records. It is well-settled that the entries in the revenue records, by themselves, do not either confer title or take away the one, that exist in an individual. They only reflect the existing state of affairs. Obviously for this reason, the Act mandates that in case there exists any dispute as to the correctness or otherwise of the entries, touching upon the title, the parties shall have to resolve the same by taking recourse to Civil Courts (See Section 8 of the Act).

14. Learned counsel for the petitioners contend that the proceedings before the 2nd respondent were vitiated. He placed reliance upon the judgment rendered by a Full Bench of this Court, in Chinnam Pandurangam Vs. The Mandal Revenue Officer, Serilingampally Mandal, M. Ravindra Babu, Mandal Revenue Officer, Serilingampally Mandal and Chinnam Narsimlu, in support of his contention, that an opportunity to be given in the proceedings u/s 5 of the Act must be effective. There is absolutely no quarrel with the said proposition. The Full Bench of this Court emphasized the importance of compliance with the principles of natural justice, in judicial and quasi judicial proceedings, and held that unless an effected party is given opportunity of being heard, the proceedings would get vitiated.

15. The petitioners could have pressed this principle into service, if only the 2nd respondent passed the order dated 18-07-2011, without issuing notice to them. Not only the petitioners have noticed the proceedings, but also have participated therein by filing their objections. It is no doubt true that Section 5(3) of the Act provides for issuance of a general notice to public, and specific notice to effected persons. However, a person, who is entitled to be issued a specific notice, cannot complain of infraction of the provision, if he is aware of the general notice, and has responded to the same. There does not exist any qualitative difference between explanations, that are required to be submitted, in reply to these two kinds of notices. The objective underlying both of them is to ensure that, the effected party is informed of the on-going proceedings. No differentiation is made as to the plea, that can be raised by an individual, who receives general notice, on the one hand, and the one, who receives a specific notice, on the other hand. The distinction in this regard is virtually without any difference. At any rate, the petitioners have realised that the root cause for the proceedings initiated by the 3rd respondent is the decree in O.S. No. 2178 of 2007, and have

filed a suit for cancellation of the decree therein, as rightly advised. Even otherwise, they have an alternative remedy by way of a revision, u/s 9 of the Act. This writ petition cannot be entertained, in this scenario.

16. The writ petition is accordingly dismissed. It is left open to the petitioners to work out their remedies, in accordance with law. The miscellaneous petition filed in this writ petition also shall stand disposed of. There shall be no order as to costs.