

(2023) 02 TEL CK 0053
In the Telangana High Court
Case No : Writ Petition No. 16883 Of 2019

G.V. Rajeshwar Reddy

APPELLANT

Vs

State Of Telangana And 6 Others

RESPONDENT

Date of Decision : 14-02-2023

Acts Referred:

Constitution Of India, 1950 — Article 226

Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 — Section 5B, 9, 10A

Registration Act, 1908 — Section 17

Citation : (2023) 02 TEL CK 0053

Hon'ble Judges : Mummineni Sudheer Kumar, J

Bench : Single Bench

Advocate : M Pranav

Final Decision : Dismissed

Judgement

1. Heard Sri A.Sudarshan Reddy, learned Senior Counsel, appearing for Mr. M. Pranav, learned counsel for the petitioner, learned Assistant Government Pleader for Revenue for respondent Nos.1 to 4 and Sri D.Prakash Reddy, learned Senior Counsel appearing for Bangaru Laxmi Jasti, learned counsel for respondent Nos.5 to 7.

2. The brief facts of the case that lead to filing of this Writ Petition are as under:-

The petitioner herein filed an appeal under Section 5B read with Section 10A of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act, 1971'), before respondent No.3 against respondent Nos.5 to 7 herein claiming that he is the absolute owner and possessor of the lands situated in Sy.Nos.272, 273, 292, 293, 290 and 294 admeasuring Acs.2.22 gts., Acs.5.07 gts., Acs.3.03 gts., Acs.6.28 gts., Acs.2.23 gts., and Acs.16.27 gts., respectively of Mamidipally Village, Dandepally Mandal, Macherial District and also stating that besides the above lands, the petitioner is also having some other lands in the same Village. It is further stated that all the above said properties stand in

the name of one late Mrs.G.V.Hemalatha Devi w/o Someshwar Reddy, the mother of the petitioner. Respondent Nos.5 to 7 herein are the natural sisters of the petitioner herein. The mother of the petitioner died on 12.06.1991 and the father of the petitioner died on 12.12.1997. Both the mother and father of the petitioner and respondent Nos.5 to 7 herein have died intestate. The petitioner herein claimed to have succeeded to the entire land standing in the name of his deceased mother being the only son. By contending so, the appeal was filed. The said appeal was filed before respondent No.3 stating that, recently the petitioner came to know that the names of respondent Nos.5 to 7 have been entered in the Revenue records in the place of the mother of the petitioner namely late Mrs.G.V.Hemalatha and that the said entries were made basing upon the compromise decrees said to have been obtained from respondent Nos.5 to 7 and further contended that the said decrees are bogus and fake and have no validity in the eye of law for want of registration and also contending that the mother of the petitioner was seriously ill as on the date of passing of the said decrees. It is the further case of the petitioner that no file is opened by Revenue Authorities for entering the names of respondent Nos.5 to 7 in the Revenue records and without there being any proceedings on record, the names of respondent Nos.5 to 7 have been entered in the Revenue records. The said appeal was filed in the month of March, 2017. Though the petitioner referred to the compromise decrees in the said appeal, he has not furnished any details of the said compromise decrees. The said appeal filed by the petitioner was dismissed by respondent No.3 by an order, dated 25.03.2017, on the ground that the said appeal was filed after a long lapse of time against the entries that were made in the year 1989 and hence, the said appeal was barred by limitation and also on the ground that the petitioner herein and respondent Nos.5 to 7 are own brother and sisters and the dispute between them is a family dispute, the same is required to be adjudicated by a competent civil Court. Having been aggrieved by the said order passed by respondent No.3, the petitioner herein filed a Revision Petition under Section 9 of the Act, 1971, before respondent No.2 herein and the said Revision Petition came to be dismissed by an order, dated 24.06.2019. Aggrieved by the said order passed by respondent No.2, the present Writ Petition is filed.

3. Sri A.Sudharshan Reddy, learned Senior Counsel, contended that the petitioner herein being the only son of late Mrs.G.V.Hemalatha, whose name was appearing in the Revenue records before entering the names of respondent Nos.5 to 7 herein and as such the petitioner herein being son of the said late Mrs.G.V.Hemalatha, is entitled for notice, but he was never put on notice before entering the names of respondent Nos.5 to 7 herein in the Revenue records in respect of the subject land. He further contended that the petitioner has been in possession of the subject property and that the same is also evident from the copies of the Pahanies that are placed on record. He further contended that a perusal of the plaint, written statement and decree passed in O.S.Nos.76, 77 and 78 of 1989, passed by the Court of the District Munsif at Luxettipet, dated 10.03.1989, makes it clear that they are collusive decrees and until and unless

the said decrees are registered under Section 17 of the Registration Act, 1908, such decrees cannot be acted upon by the Revenue authorities for giving effect to such decrees. He further contended that no order was passed by respondent No.4 herein ordering for mutation of the names of respondent Nos.5 to 7 herein, in the revenue records. It is also contended that, respondent Nos.5 to 7 herein played fraud on the petitioner and got their names entered in the Revenue records in a fraudulent manner. He also placed reliance on the judgment of the Hon'ble Apex Court in the case of Bhoop Singh vs Ram Singh Major & Ors 1995 SCC (5) 709 and Ganpatbhai Mahijibhai Solanki vs State Of Gujarat & Ors (2008) 12 SCC 353 and also on the judgment of Full Bench of this Court in Chinnam Pandurangam v. Mandal Revenue Officer, Serilingampally Mandal & Ors AIR 2008 AP 15.

4. On the other hand, Sri D.Prakash Reddy, learned Senior Counsel appearing for respondent Nos.5 to 6, submitted that respondent No.5 is the absolute owner and the possessor of the land situated in Sy.Nos.290 and 293 admeasuring Acs.2.23 gts., and Acs.6.28 gts., respectively of Mamidipally Village and respondent No.6 is the absolute owner and possessor of land situated in Sy.Nos.272, 273 and 292 admeasuring Acs.2.22 gts., Acs.5.07 gts., and Acs.3.03 gts., respectively and similarly respondent No.7 is the absolute owner and possessor of the land situated in Sy.No.294 admeasuring Acs.16.27 gts., having got the same by way of 'Pasupukunkuma' and as confirmed by a decree passed in O.S.Nos.76, 77 and 78 of 1989, on the file of the Court of District Munsif at Luxettipet, declaring the title of respondent Nos.5 to 7 herein in respect of their respective extents of lands. It is further contended that the said decrees were passed in favour of respondent Nos.5 to 7 in the year 1989 and during the life time of the mother of the petitioner and respondent Nos.5 to 7, consent decrees were passed in the said suits, and by virtue of the said consent decrees, the names of respondent Nos.5 to 7 have been entered in the Revenue records as early as in the year 1989. Thus it is contended that, the said entries were made with the consent of the mother of the petitioner namely late Mrs.G.V.Hemalatha Devi, whose name is replaced with the names of respondent Nos.5 to 7 herein, the question of putting the petitioner herein on notice, during the life time of his mother does not arise at all. It is further contended that the appeal was filed by the petitioner herein almost after a lapse of 30 years from the date of entering the names of respondent Nos.5 to 7 in the Revenue records and as such the same was rightly dismissed by respondent No.3 and confirmed by respondent No.2. It is also contended that the Pahanies that are placed on record clearly show that the names of respondent Nos.5 to 7 herein have been appearing in the Revenue records as Pattadars since the year 1989-90 onwards in respect of the subject lands and the name of the petitioner herein is also being shown in the Revenue records in respect of the other survey numbers i.e., Sy.Nos.274, 285, 286, 287, 288, 289 and 291 etc., which were also the lands originally standing in the name of the mother of the petitioner. Thus, Sri D.Prakash Reddy, learned Senior Counsel, submitted that the petitioner herein succeeded to certain extent

of land referred to in the above survey numbers and respondent Nos.5 to 7 herein have succeeded to the other extents of land, which are the subject matter of this Writ Petition. But the petitioner herein, with a mala fide intention, after a long lapse of time, filed an appeal before respondent No.3 pleading ignorance about the entries that were made in the year 1989 and contending that he has come to know about the entries in the Revenue records recently. He also submitted that respondent Nos.2 and 3 have rightly considered all the contentions raised by the petitioner and they were rightly dealt with, and as such this Court, in exercise of jurisdiction under Article 226 of the Constitution of India, cannot sit in appeal over the findings recorded by respondent Nos.2 and 3. He also contended that the contention of the petitioner that the consent decrees are required to be registered is totally unsustainable, as the said decrees were passed recognizing the pre-existing right of respondent Nos.5 to 7 over the subject land.

5. I have carefully considered the arguments advanced on either side and perused the entire material on record.

6. There is no dispute that the names of respondent Nos.5 to 7 are entered in the Revenue records as Pattadars in respect of their respective extents of lands as claimed by respondent Nos.5 to 7. Copies of the amendment register of the year 1989 are also placed on record. There is no dispute about the copies of the amendment register placed on record. Certified copies of the decrees passed in O.S.Nos.76, 77 and 78 of 1989, on the file of the Court of the District Munsif at Luxettipet, are also placed on record. The petitioner is aware of such decrees as on the date of filing of the appeal before respondent No.3 in the month of March, 2017, and reference was also made in the said appeal to the decrees in question. It is an admitted fact that the names of respondent Nos.5 to 7 herein were entered in the Revenue records basing upon the decrees passed by the competent civil Court, which were passed during the life time of the mother of the petitioner herein. The mother of the petitioner herein has not chosen to question the said decrees nor chosen to question the entries made in favour of respondent Nos.5 to 7 herein during her life time. The claim of the petitioner over the subject land is by virtue of inheritance on the demise of his mother in the year 1991. The question of inheritance over the subject lands will arise only in case if the mother of the petitioner had possessed such lands as on date of her demise.

7. In the instant case, admittedly, the decrees declaring the title of respondent Nos.5 to 7 herein were passed in the year 1989 during the life time of the mother of the petitioner and the names of respondent Nos.5 to 7 were also entered in the Revenue records as Pattadars.

8. In the light of the above, the question of petitioner herein succeeding to the lands, which are the subject matter of the decrees in O.S.Nos.76, 77 and 78 of 1989, dated 10.03.1989, does not arise at all. Hence, the very basis on which the petitioner is making a claim is totally unsustainable. If at all the petitioner is

aggrieved by the decrees passed by the competent civil Court, it is for the petitioner to take steps to avoid such decrees by instituting appropriate proceedings before the competent Court of Law. It is not the case of the petitioner that he has taken any such steps as on date.

9. Even otherwise, the petitioner herein cannot succeed to the entire properties of his deceased mother, as admittedly respondent Nos.5 to 7 herein are the natural sisters of the petitioner herein. If at all a succession is to take place on the demise of the mother of the petitioner, the petitioner and respondent Nos.5 to 7 herein succeed to the same being Class I Heirs under the Hindu Succession Act, 1956. Therefore, on both the grounds the claim made by the petitioner before respondent No.3 is totally unsustainable.

10. Further, it is not the case of the petitioner that his mother died without executing any Will and on the other hand it is an admitted case that the mother of the petitioner died intestate. If that be the case, the petitioner and respondent Nos.5 to 7 herein being Class I Heirs will succeed to the entire estate of their mother. As is evident from the appeal filed by the petitioner herein before respondent No.3, besides the lands, which are subject matter of this Writ Petition, there are certain other lands, which were also standing in the name of the mother of the petitioner and the petitioner succeeded to the said lands. As rightly pointed out by Sri D.Prakash Reddy, learned Senior Counsel, and as is evident from the Pahanies placed on record, the petitioner is having the lands in other survey numbers i.e., 272, 273, 292, 293, 290 and 294.

11. In the light of the decrees passed by the competent civil Court referred to above and as already pointed out above, the very basis on which the petitioner made a claim for claiming title over the subject properties is found unsustainable by this Court, this Court does not find any reason to consider the other submissions made by learned Senior Counsel on behalf of the petitioner.

12. Even assuming that the decrees that were obtained by respondent Nos.5 to 7 herein are not valid, either for want of registration or on the ground of collusion etc., as alleged, the petitioner and respondent Nos.5 to 7 herein being Class I Heirs of their mother namely late Mrs.G.V.Hemalatha Devi, they succeed to the entire estate of their mother and as such they will have equal right over the entire estate of their deceased mother. But the petitioner cannot claim exclusive right over the estate of his deceased mother. Further a decree passed by a competent civil Court cannot be ignored unless and until the same is declared as invalid or not binding on the petitioner.

13. In the light of the above, this Court is in complete agreement with the reasoning given by respondent Nos.3 and 2 in the impugned orders, dated 25.03.2017 and 24.06.2018 respectively passed by them and does not find any reason to interfere with the reasoning given by respondent Nos.2 and 3 and not inclined to exercise the jurisdiction of this Court under Article 226 of the Constitution of India.

14. However, it is open for the petitioner to agitate his rights either against the decrees that are being relied upon by respondent Nos.5 to 7, or to agitate his rights being a son of late Mrs.G.V.Hemalatha Devi by instituting appropriate proceedings before a competent Court in accordance with law.

15. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

As a sequel, miscellaneous petitions, pending if any in this Writ Petition, shall stand dismissed.