

(2022) 11 TEL CK 0105
In the Telangana High Court
Case No : Writ Petition No. 26070 Of 2021

Kaki Narayana

APPELLANT

Vs

State Of Telangana And 4 Others

RESPONDENT

Date of Decision : 30-11-2022

Acts Referred:

Constitution Of India, 1950 — Article 226

Telangana Tenancy and Agricultural Lands Act, 1950 — Section 38E

Citation : (2022) 11 TEL CK 0105

Hon'ble Judges : Mummineni Sudheer Kumar, J

Bench : Single Bench

Advocate : Vijay B Paropakari

Final Decision : Dismissed

Judgement

1. This Writ Petition is filed seeking a writ of Mandamus to declare the action of respondent No.4 in mutating the name of respondent No.5 in the Revenue records in respect of land situated in Sy.Nos.276, 278, and 279 admeasuring Acs.12.26 gts., Acs.1.17 gts., and Acs.4.27 gts., respectively of Kongara Kalan Village, Ibrahimpatnam Mandal , Ranga Reddy District and issuing Pattadar Pass Book bearing No.T05090010223 and also sought for a consequential direction to set aside the mutation proceedings and the Pattadar Pass Book in question.

2. Heard Sri Vijay B.Paropkari, learned counsel for the petitioner and Sri Dammalapati Sreenivas, learned Senior Counsel appearing for Sri Rohit Pogula, learned counsel for respondent Nos.6 and 7 and learned Assistant Government Pleader for Revenue for respondent Nos.1 to 4. None appeared for respondent No.5.

3. Before considering the controversy involved in the present Writ Petition, it is necessary to refer to certain admitted facts of the case.

4. The subject land was subjected to Land Ceiling proceedings under the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1975 (for short 'the

Ceiling Act,1975), and the same was declared as Ceiling surplus land at the instance of the original land owner. The father of the petitioner and respondent No.5 herein namely Kaki Ramaiah, who was the protected tenant in respect of the subject land. At the instance of legal heirs of Kaki Ramaiah, the original protected tenant, the subject land is excluded from the proceedings under the Ceiling Act, 1975. The sons of late Kaki Ramaiah, that is the petitioner herein, respondent No.5 and another person by name Kaki Chakrapani were granted a joint Ownership Right Certificate (ORC) under Section 38(E) of the Telangana Tenancy and Agricultural Lands Act, 1950 (for short 'the Act, 1950'), through proceedings No.L/797/2020, dated 29.06.2020. Though, various other proceedings have taken place under the Ceiling Act, 1975, they have no much relevance to the issue involved in this Writ Petition as the subject property is already deleted from the holdings of original land owner and ownership certificate under Section 38(E) of the Act, 1950, which was already granted as noted above. The petitioner herein, respondent No.5 and the other brother namely Kaki Chakrapani have jointly executed two (02) sale deeds, dated 07.07.2020 and 07.07.2020 in favour of respondent Nos.6 and 7 for an extent of Acs.3.30 gts., and Acs.15.00 gts., respectively, thereby covering the entire extent of the land which is the subject matter of this Writ Petition. It is also not in dispute that though the said two (02) sale deeds executed by the three (03) sons of late Kaki Ramaiah were refused to be registered initially and were returned, the said documents were registered by the Sub-Registrar, Ibrahimpatnam, Rangareddy District on 08.12.2021 and 13.12.2021 and were assigned registered document Nos.19577 of 2021 and 19800 of 2021. The registration of the said documents was carried out pursuant to an interim order passed by this Court in I.A.No.1 of 2021 in W.P.No.28545 of 2021, dated 24.11.2021. The said order in I.A.No.1 of 2021, dated 24.11.2021 came to be set aside by a Division Bench of this Court in Writ Appeal No. 653 of 2021 and the Writ Petition No.28545 of 2021 is pending consideration before this Court. It is also on record that the petitioner herein filed O.S.No.320 of 2021 on the file of Court of the Principal Senior Civil Judge, Rangareddy District, at L.B.Nagar seeking injunction against respondent Nos.6 and 7 herein and another in respect of subject property and the same is pending, adjudication.

5. In the light of the above admitted and undisputed facts, the issue involved in the present Writ Petition is required to be considered.

6. As already noted above, the relief that is sought in the present Writ Petition is in respect of the mutation that is said to have been affected in favour of respondent No.5 herein in the Revenue records in respect of the subject property and issue a consequential Pattadar Pass Book thereon. From the averments made in the affidavit filed in support of the Writ Petition, it is noticed that the petitioner suppressed the fact, that he along with his two (02) other brothers that is respondent No.5 and Kaki Chakrapani have jointly executed the two (02) sale deeds in favour of respondent Nos.6 and 7 covering the entire extent of land which is the subject matter of this Writ Petition. Suppressing the said fact, the

petitioner herein filed the present Writ Petition as though the petitioner herein and respondent No.5 have joint interest in the subject property along with Kaki Chakrapani. After respondent Nos.6 and 7 herein filed an implead application, learned counsel for the petitioners herein has expressed his no objection for respondent Nos.6 and 7 herein to come on record and accordingly, the same was ordered. After the respondent Nos.6 and 7 herein brought to the notice of this Court through the Vacate Petition and the affidavit filed in support thereof, about execution of two (02) sale deeds as noted above, the learned counsel for the petitioner admitted about execution of the above refereed two (02) sale deeds by the petitioner herein, respondent No.5 and their brother Kaki Chakrapani and also, about the registration of the said documents as noted hereinabove.

7. However, the learned counsel for the petitioner contended that registration of the said two (02) sale deeds is pursuant to an interim order passed by this Court in I.A.No.1 of 2021 in W.P.No.28545 of 2021, which order came to be set aside by a Division Bench of this Court in Writ Appeal No.653 of 2021 and thus, contended that the said registration affected by virtue of the interim order referred to the above has no validity and such registration would be subject to result of the said Writ Petition No.28545 of 2021. The execution of the two (02) sale deeds as early as on 07.07.2020 and their presentation for registration before the concerned Sub-Registrar by the petitioner and others is not disputed. The only dispute is about the subsequent registration of the subject document pursuant to an interim order passed by this Court.

8. The fact remains that the said two (02) registered documents are registered and said registration is not disturbed as on today. Though, vaguely an averment is made that the cheques that were issued under the said sale deeds are bounced, no substantial proceedings seeking to avoid the said sale deeds or for recovery of any such sale consideration are initiated as on date. The proceedings that are initiated by the petitioner herein is only by filing O.S.N.320 of 2021, that too seeking permanent injunction against respondent Nos.6 and 7 herein and another. Thus the sale deeds executed by the petitioner herein along with others remained unchallenged as on date. In the absence of any challenge to the said two (02) sale deeds referred to above, any claim of the petitioner over the subject land is totally without any right and title over the said property. As already noted above, respondent No.5 herein has not chosen to enter appearance and contest the matter. Neither the petitioner herein nor respondent No.5 herein can be said to be having any subsisting right over the subject property so long as the sale deeds, dated 07.07.2020, executed by them remained unchallenged. The validity of registration of the sale deeds on 08.12.2021 and 13.12.2021 is the subject matter of another Writ Petition bearing W.P.No.28545 of 2021 pending before this Court and the same cannot be gone into or adjudicated in this Writ Petition. Thus the attempt made by the petitioner and the relief sought in the present Writ Petition appears to be in active collision with respondent No.5 to the detriment of respondent Nos.6 and 7 herein, who are the beneficiaries under the above referred two (02) sale deeds, or may be

the respondent No.5 felt that he has no interest in the subject land as he has already executed sale deeds in favour of respondent Nos.6 and 7.

9. Thus, in the facts and circumstances of the case, as noted above, this Court is of the considered view that this Writ Petition is liable to be dismissed, firstly, on the ground of suppression of facts and secondly, for want of petitioner having any subsisting interest in the subject property. The learned counsel for respondent Nos.6 and 7 placed reliance on various judgments in support of the contention of suppression of facts by the petitioner. In the case of K.D.Sharma V/ s Steel Authority of India Limited and others (2008) 12 SCC 481 and the case of Dalip Singh V/s The state of Uttar Pradesh (2010) 2 SCC 114 and others and another case in Oswal Fats and Oils Limited V/s Additional Commissioner (Administration), Bareilly Division (2010) 4 SCC 728.

As it is a settled legal position that the discretionary relief under Article 226 of the Constitution of India cannot be exercised in favour of a person who approached this Court by suppressing the material facts and with uncleaned hands, there is no necessity to refer in detail to the law laid down by the Hon'ble Apex Court in the above referred Judgments.

10. In the light of the above, this Court does not find any merit in the Writ Petition and the same is liable to be dismissed. Accordingly, the same is dismissed. However, the validity or otherwise of the registered sale deeds vide the document Nos.19577 of 2021 and 19800 of 2021 is left open to be decided in W.P.No.28545 of 2021, and in case if the petitioner has got any grievance against the said two (02) sale deeds, it is open for the petitioner to pursue all such remedies that may be available to the petitioner in accordance with law.

As a sequel, miscellaneous petitions, pending if any in this Writ Petition, shall stand dismissed. There shall be no order as to costs.