
(1998) 06 AP CK 0001

In the Andhra Pradesh High Court

Case No : Civil Revision Petition No. 3520 of 1993

Musti Narsimlu and Others

APPELLANT

Vs

C. Malla Reddy

RESPONDENT

Date of Decision : 15-06-1998

Acts Referred:

Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950 — Section 50B

Citation : (1999) 3 ALT 182

Hon'ble Judges : R. Bayapu Reddy, J

Bench : Single Bench

Advocate : K. Mahipathy Rao, for the Appellant; None, for the Respondent

Final Decision : Allowed

Judgement

R. Bayapu Reddy, J.—This revision is filed by the appellants in Appeal No. B7/30/1979 on the file of the Joint Collector, Mahabubnagar, order dated 28-8-1993 who confirmed the order of the Tahsildar, Kalwakurthy dated 9-3-1979 passed in File No. A.2/ 957/ 78 by which the petition filed by the respondent herein u/s 50-B of the A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950 (for short the "Act") was allowed.

2. The respondent herein had filed an application before the Tahsildar, Kalwakurthy in File No. A2/957/1978 u/s 50-B of the Act seeking a certificate declaring that the purchase of 10 acres 4 1/2 guntas of land in Survey No. 246 made by him from one M. Ramaiah, who is respondent before the Tahsildar is valid. The said petition was contested by the respondent therein, M. Ramaiah contending that he did not sell any portion of the land in Survey No. 246 to the petitioner before the Tahsildar and the alleged document relied upon by the petitioner therein was a forged document and that possession was also never delivered to the petitioner therein and, therefore, the petition may be dismissed. The Tahsildar by the impugned order dated 9-3-1979, allowed the said petition agreeing with the contention of the petitioner therein and granting relief u/s 50-B

of the Act. Questioning the said order, the respondent before the Tahsildar, M. Ramaiah, filed an appeal before the Joint Collector, in Appeal No. B7/30/1979 and the said appeal was dismissed by the Joint Collector as per the impugned order dated 28-8-1993. Questioning the said order, the present revision is filed by the legal representatives of M. Ramaiah, who died during the pendency of the appeal before the Joint Collector, Mahabubnagar.

3. Notice was issued to the respondent herein, who is the petitioner before the Tahasildar and who has been contesting this revision petition by appearing in-person. When the matter came up for hearing on 8-6-1998, the respondent appearing in-person, was absent and the learned Counsel for the petitioners requested time and as such the matter was posted to this day for orders. To-day also the respondent is absent. Hence, heard learned Counsel for the petitioners and perused the relevant material on record.

4. It is seen from the facts of this case that M. Ramaiah, who was the predecessor of the present revision petitioners, was admittedly owning and possessing the total extent of 21 acres 7 guntas of land in Survey No. 246. The contention of the present respondent, who had filed an application before the Tahasildar u/s 50-B of the Act is that he had purchased an extent of 10 acres 41/2 guntas of land out of the total extent of 21 acres 7 guntas of land under an unregistered and unstamped document dated 12-6-1960 and took possession of the said land from M. Ramaiah and continued, to be in possession and enjoyment of the same and, therefore, he is entitled for the certificate contemplated u/s 50-B of the Act. He, therefore, filed the petition u/s 50-B of the Act before the Tahasildar. M. Ramaiah, who was the predecessor of the present revision petitioners, specifically contested before the Tahasildar contending that he never sold any land in Survey No. 246 to the present respondent under any document dated 12-6-1960 or at any other time and that he never delivered possession of such land to him and that the document dated 12-6-1960 is a forged document. The Tahasildar, however, upheld the contention of the present respondent, who was the petitioner before him and came to the conclusion that the above said document dated 12-6-1960 is true and valid and possession of the land was delivered to the petitioner before him by M. Ramaiah and as such the petitioner was entitled for issue of the certificate u/s 50-B of the Act. It is to be seen in this connection that the said M. Ramaiah had filed a civil suit in O.S. No. 24/1977 on the file of the District Munsif, Kalwakurthy against the present respondent-G. Malla Reddy and another person relating to the same land of 21 acres 7 guntas in Survey No. 246 seeking the relief of permanent injunction to restrain the defendants therein from (interfering with) his possession and enjoyment of the said land and the said suit was partly contested by the defendants therein. On the basis of the evidence adduced, the learned District Munsif, Kalwakurthy, decreed for the abovesaid relief by the judgment dated 30-7-1980. The said judgment of the District Munsif, Kalwakurthy was confirmed by the District Judge in A.S. No. 63 /1980 dated 28-8-1981 and further confirmed by the High Court in S.A. No. 537/1981 dated 31-3-1986 and the said judgment has become final.

These facts are not disputed. A copy of the judgment in O.S. No. 24/77. is also made available. Issue Nos. 1 and 2 were specifically framed in the suit regarding the ownership and possession of the above said land and also regarding the alleged purchase of the land in the said survey number by the defendants therein, who were the petitioners before the Tahsildar. The District Munsif discussed issue Nos. 1 and 2 at length on the basis of the evidence adduced and arrived at the clear-cut conclusion that the document under which the defendants therein said to have purchased the land from the plaintiff M. Ramaiah, which was marked as Ex.A-2, was not a true and valid document and that it was a fabricated document not conferring any right or title on the defendants therein. The learned District Munsif also further arrived at the conclusion by a specific finding that the plaintiff in that suit was the owner of the land and was in possession and enjoyment of the land throughout and the defendants therein never took possession of any portion of the land at any point of time. On the basis of the findings arrived at, the suit was decreed in favour of the plaintiff, M. Ramaiah and the said findings given and the judgment and decree passed in the suit have become final and are binding on the parties to that civil litigation. The petition before the Tahasildar also between the same parties and the same point arose for consideration. It is no doubt true that the orders of the Tahasildar dated 9-3-1979 were passed even before the suit was decreed on 30-7-1980 but by the date of dismissal (sic. passing) of the orders by the Joint Collector in the appeal on 28-8-1993 the above said decree and judgment in O.S. No. 24/1977 was already pronounced and the same was also confirmed in appeal by the District Court and in the second appeal by the High Court. Such material was in fact produced before the Joint Collector as seen from the impugned order passed by him. But the learned Joint Collector brushed aside such judgment of the civil Court on the ground that the suit was not filed for the relief of declaration of title and that such judgment and decree of the civil Court are not binding upon him and cannot be looked into for the purpose of petition filed u/s 50-B of the Act. But such opinion of the Joint Collector cannot be sustained. As already stated above, there was a specific issue framed in O.S. No. 24/1977 regarding the title as well as the possession of the land which was in dispute in the suit and he has filed the same petition before the Tahasildar, and the learned District Munsif gave categorical findings on the basis of the evidence adduced before him that the plaintiff therein, M. Ramaiah, was the owner of the land and that the defendants never purchased that land under the document, which was marked as Ex. A-2 and on the basis of which the petition was filed before the Tahasildar u/s 50-B of the Act. Therefore, the view of the Joint Collector that the suit was not filed for the relief of declaration, is without substance and cannot be accepted. In the decision reported in *B. Krishna Murthy v. P. Narasimha Reddy and Ors.* 1979 (2) ALT 33 (NRC) (relating to Second Appeal No. 399/77, dated 10-7-1979), it is specifically held that the issue of validation certificate u/s 50-B of the Act does not take away the jurisdiction of the civil Court to adjudicate the question of title between the persons who are not parties to the proceedings u/s 50-B and those who are parties to those

proceedings. In a recent decision of this Court reported in Prabhulingam Vs. Y. Ramiah and Others, , also it was observed that the findings of the civil Court which have become final are binding upon the person who are parties to the tenancy proceedings. In view of such circumstances, the impugned order of the Joint Collector and the order of the Tahasildar granting certificate u/s 50-B of the Act cannot be sustained.

5. Apart from this, on a perusal of the material on record placed before the Tahasildar in the proceedings before him and the impugned order of the Tahasildar, it is clear that he did not properly appreciate the evidence adduced before him relating to the truth and the validity of the document dated 12-6-1960 under which the petitioners before him were said to have purchased the land from M. Ramaiah, who was the respondent. He has not given valid and convincing reasons to believe the genuineness of the above said document which is tampered in many ways and which contains interpolation and corrections at number of places and which is a unregistered and unstamped document. He was not justified in placing reliance upon the evidence of an attester of the said document who is said to be behind the present litigation and who is said to be helping the petitioners before the Tahasildar. In view of the circumstances, the order of the Joint Collector confirming the order of the Tahasildar, cannot be sustained.

6. In the result, the revision is allowed and the impugned order of the Joint Collector confirming the order of the Tahasildar is set aside. No costs.