

(2022) 09 TEL CK 0058
In the Telangana High Court
Case No : Writ Petition (PIL) No. 70 Of 2021

Pulimamidi Shashidhar Reddy

APPELLANT

Vs

State Of Telangana And 7 Others

RESPONDENT

Date of Decision : 20-09-2022

Acts Referred:

Citation : (2022) 09 TEL CK 0058

Hon'ble Judges : Ujjal Bhuyan, CJ; Surepalli Nanda, J

Bench : Division Bench

Advocate : K V Rajasree

Final Decision : Dismissed

Judgement

1. Heard K.V.Rajasree, learned counsel appearing on behalf of the petitioner, Sri E.Madan Mohan Rao, learned senior counsel appearing for respondents 5 to 8, Sri R.Balasubrahmanyam, learned counsel in the implead petition, and learned Government Pleader for Assignment.

2. The present writ petition has been filed in the form of Public Interest Litigation seeking the following relief.

"to direct respondents 1 and 2 to cause an enquiry into the transfer of land in Survey No.1019, 1077 and 1078 of Bhongir Village (Town), Yadadri-Bhuvangir District (erstwhile Nalgonda District) admeasuring Ac.98.08 gts in the name of the 5th respondent and take over the said land into the possession of the Government."

3. The case of the petitioner, in brief, is as follows:

a) The land admeasuring Ac. 98-08 Gts in Sy. Nos. 1019, 1077 & 1078 (herein referred to a Schedule Land) of Bhongir Village was standing in the name of one Hazi Ghulam Mohmmmed (herein referred to as Hazi) and he does not have any legal heirs or relatives. As a result, there were no claimants to the said property. Hazi has left the country during the time of partition, however, his name

continued to appear in the revenue records as pattadar up to the year 2000.

b) During the year 2000-01, the name of 5th Respondent was shown as the pattadar on the basis of an unregistered sale deed stating that the schedule property has been purchased from the sons of late Hazi. On the other hand, when there are no legal heirs of late Hazi, it is not known how his sons are shown as vendors.

c) However, the 5th Respondent's statement was recorded neither they were examined by the revenue authorities nor any legal heir certificate was produced before the authorities. There was no payment towards any regularization fees in respect of Sada Bainama. But, in collusion with the 5th Respondent, the 3rd and 4th Respondents have raised proceedings favouring private persons.

d) The then 3rd Respondent vide his Proc.No.C/73073/2005 dated 16.02.2006 has clearly stated that the change of patta and transfer of ownership (mutation) is a clear action of manipulation and malpractice. The 3rd respondent also requested to delete the name of the 5th Respondent as pattadar for the year 2000-2001 and to restore the names as they existed in the year 1999-2000.

e) Aggrieved by the same, the 5th Respondent preferred appeal before the 3rd Respondent by showing some unofficial respondents. The 3rd Respondent has passed the order in Case No.D/1429/2006 dated 11.06.2007 holding that the appellants/unofficial respondents have purchased the Schedule land by way of sada bainama dated 08.05.1999. However, the unofficial respondents did not produce either registered Sale Deed or ordinary Sale Deed.

f) Subsequently, the unofficial respondents approached the 2nd Respondent and withdrew the Revision Petition in the year 2013 apparently compromising the matter while the same was pending.

g) In the year 2013, the 4th Respondent has issued mutation orders favouring the 5th Respondent vide proceeding No. A/3488/2013 dated 13.08.2013. Thereafter, on 25.05.2014, on the request of the 5th Respondent, the 4th Respondent in above mentioned proceedings mutated the land in favour of the 5th Respondent's daughters to an extent of Ac.59.34 Gts of land in Sy.No. 1019, which is not possible.

h) On 15.03.2021, the petitioner has also made a complaint to the 2nd respondent bringing to her notice that the valuable unclaimed land nearly Ac.100 is being given away to the unofficial respondents. Also, there was collusion between the 3rd, 4th and the 5th respondents.

i) Hence, this writ petition is filed.

4. The contents of the counter affidavit filed by the 2nd respondent is as follows:

a) As per the entries recorded in the Khasra pahani for the year 1954-55 of Bhongir Village the Schedule land is recorded as pattadar and occupant. Further as verified from subsequent pahanies for the year 1980-81, the name of

Garlapati Jaggaiah is recorded in the occupant column with respect to the Schedule lands.

b) During the year 2005, Garlapati Prakash S/o Papaiah and Garlapati Laxmaiah s/o Narsaiah have filed a petition before the then MRO, Bhongir claiming that, they are the shareholders of the Schedule land and same is pending in the Senior Civil Court in I.A.No.297/03.

c) The MRO after issuing notices to the interested parties, the 5th Respondent stated to have produced a copy of simple sale deed executed by the legal heirs of the original pattadar Hazi and basing on the same, the MRO issued orders dated 16.02.2006 stating that the 5th Respondent did not produce the original copy of the sale deed and other documentary evidence. Accordingly, the 4th Respondent issued orders deleting the name of 5th Respondent from pattadar for the year 2000-01.

d) Aggrieved by the order of MRO, the 5th Respondent filed an appeal before the 3rd Respondent against Garlapati Prakash and Garlapati Laxmaiah. The 3rd Respondent opined that the 5th Respondent is the only purchaser having purchased the Schedule land through a sale deed dated 08.05.1999 and directed to restore the entries in favour of the 5th Respondent.

e) Aggrieved by the above order, Garlapati Kanakarathnam w/o late Laxmaiah and 5 others filed a revision before 2nd Respondent. The 2nd Respondent disposed of the said revision as the revision petitioners have settled the issue with the 5th Respondent outside the court by entering into a separate settlement deed.

f) The said orders states that the 5th Respondent as the pattadar of the land were implemented in the register for the year 2012-13 and issued passbooks and title deeds. Further, the 5th Respondent submitted a petition to the 4th Respondent during the year 2013-14 requesting for partition of his lands in Sy. No 1019 in favour of 6th, 7th and 8th respondents. Accordingly, during the years 2014-15 the 4th Respondent, amended the said entries in the name of the 6th, 7th and 8th respondents. However, during the subsequent years, an extent of Ac. 05.18 Gts already declared as ceiling surplus vide C.C.NO. 5933/75 with respect to the land in Sy.No. 1019 was shown as Government land and the same is reflected in the present dharani online records.

g) Subsequently, Garlapati Prakasham & (2) others, who claims to be the original owners of the subject lands, filed (2) different writ petitions vide W.P.NO. 9020 of 2017 and W.P.No.6611 of 2021 against respondents 5 to 8 and also on the official respondents. The Court passed orders in W.P.No. 38940 of 2017 on 08.03.2021, dismissing the petition while directing the petitioners to approach the competent civil court ventilating their grievance that the terms of compromise were not adhered to or that it was obtained by fraud or coercion. Further this Court in WP. No.6611 of 2021 on the petition filed against these official respondents passed orders on 24.03.2021, confirming the orders of 4th Respondent dated

13.08.2013 in favour of the unofficial 5th Respondent and dismissed the petition.

h) However, it is submitted that, out of an extent of Ac.59.34 Gts in Sy.No.1019, an extent of Ac.5.18 Gts is declared ceiling surplus vide CC. No.5933/75 from the title of Garlapati Laxmaiah and the balance extent of Ac.54. 16Gts is recorded in the names of Respondents 6 to 8. The ceiling surplus land is not recorded on the names of the unofficial respondents and the same is in the custody of Government.

5. The contents of the counter affidavit filed by respondents 5 to 8 is as follows:

a) The schedule land is not a Government land and it is a clear patta land held by Respondents 5 to 8 and also, the Government is not interested in the said land.

b) In one of the proceeding initiated by Galapati Prakasam and others, the father of the petitioner contested O.S No. 432 of 2007 before the Principle Junior Civil Judge, which was dismissed on 27.03.2018.

c) Respondents 5 to 8 entered into compromise with the contesting parties to avoid litigation. The petitioner demanded Rs.1.00 crore and blackmailed Respondents 5 to 8, and they did not agree for the demand, the petitioner got filed this Writ Petition without any locus standi, mala fide by abusing the provisions of the Public Interest Litigation.

d) There are number of civil litigations over the years before various Courts on the Schedule land, which is a private patta land right from khasra pahani 1954-55 onwards. Thus, this PIL is nothing but a mala fide proceeding initiated by the petitioner.

e) Respondent 5 to 8 submits that the schedule land was standing in the name of Hazi, but the allegation that Hazi did not have any legal heirs or relatives and there were no claimants to the said property, is totally incorrect, as the petitioner was not born in the year 1954-55. The said Haji is an Indian Citizen. The subject property is not an evacuee property at all and no notification has been issued under the provisions of the Evacuee Property Act, 1950 and the said act was already repealed. However, till the purchase made by Respondent 5 to 8 in the year 2000, Hazi's name is recorded in the records maintained by the Revenue Department of the State.

f) The legal heirs of the said Haji Ghulam Mohammed sold the subject property to the 5th Respondent in the year 1999 and the 5th Respondent's name is recorded in possessor column since the date of his purchase. Garlapati Prakasam, Laxmaiah and others, who are the family members, who got their names incorporated illegally as cultivators, engineered suit bearing O.S. No.24 of 1986 on the file of the Subordinate Judge, Bhongir for partition, and the said suit was dismissed vide judgment and decree dated 24.04.1991, and the said matter was appealed before this Court in A.S. No.1730 of 1991.

g) However, this Court set aside the said judgment and decree dated 05.03.2003

passed by the trial Court and decreed the suit by passing a preliminary decree. Subsequently, Special Leave Petition was filed before the Hon'ble Supreme Court against the said judgment and it was dismissed in the year 2003.

h) Pursuant to the compromise and settlement of the revision suit, Memorandum of Understanding dated 19.12.2018 was entered into between the parties and accordingly, an amount of Rs.6.30 crores was paid to the said persons.

i) The proceedings referred above (in the counters) before the Revenue Authorities, Civil Courts, this Court and the Hon'ble Supreme Court, there was never any claim of Government that the schedule land belongs to the Government and no document was provided proving the same.

j) While the matter stood thus, having known all the facts, that the subject land is a patta land, and all the legal heirs clearly stating that original owner Hazi believes to be resident of Pakistan, stating that it is a government land, without a scrap of paper, except relying on the proceedings of the 4th Respondent dated 16.02.2006, which was already set aside by the 3rd respondent vide order dated 11.06.2007 holding that the 5th Respondent purchased the property and are in longstanding possession over the land in question. The revenue authorities have also no jurisdiction to disturb our settled long possession and title. The Hon'ble Courts have advised to go to the civil Court and the said orders have become final.

k) There is neither public interest nor any governmental interest in respect to the Schedule land. It is purely private patta land belonging to Respondents 5 to 8.

6. Learned Government Pleader for Assignment mainly relies upon paras 2, 3, 6 and 7 of the counter affidavit, the relevant contentions already extracted above and contends that as per the entries recorded in Khasra Pahani for the year 1954-55 of Bhongir Village, the subject schedule land is recorded as Pattedar and occupant.

7. Paras 6 and 7 of the counter filed by respondent No.2 read as under:

"6. In reply to the averments made in paras No.4(iv) and (v), I humbly submit that, as per the records maintained by the office of 4th respondent, the subject lands in Sy.Nos.1019, 1077 and 1078 situated at Bhongir Village of Yadadri-Bhuvanagiri District are patta lands. However, it is to submit that, out of an extent of Ac.59.34 gts in Sy.No.1019, an extent of Ac.5.18 gts is declared ceiling surplus vide C.C.No.5933/75 from the title of Garlapati Laxmaiah S/o Narsaiah and the balance extent of Ac.54.16 gts is patta land recorded on the names of respondents No.6, 7 and 8 herein. The ceiling extent of Ac.5.18 gts is shown separately in the revenue records and it is not recorded on the names of unofficial respondents and the same is in custody of the Government. The allegations made by the petitioner herein that, the said lands are Government lands and encroached and recorded on the names of unofficial respondents No.5 to 8 is not true."

"7. It is submitted that, as per the entries reflected in revenue records, the subject lands recorded on the name of un-official respondents No.5 to 8 are purely patta lands as per the available revenue records since from the Khasra Pahanai (1954-55) and the ceiling declared extent is also shown separately and not recorded on these un-official respondents. The said allegations leveled by the writ petitioner are only invented to maintain the Public Interest Litigation before the Honourable Court."

8. Learned Government Pleader placing reliance on para 6 and 7 extracted above of the counter affidavit filed by the 2nd respondent contends that the allegations of the petitioner that the subject lands are government lands and encroached and recorded on the names of the unofficial respondents 5 to 8 is not true and the said allegation leveled by the writ petitioner are only invented to maintain the Public Interest Litigation before the Court.

9. Mr E.Madan Mohan Rao, learned senior counsel placing reliance on the detailed counter affidavit filed on behalf of respondent Nos. 5 to 8, the contentions raised thereunder already extracted above, submits that there is neither public interest nor any Governmental interest in respect of the subject land admeasuring Ac.98.08 gts in Survey Nos. 1019, 1077 and 1078 of Bhongir Village and further that it is purely private patta land belonging to respondents 5 to 8.

10. Perused the record.

11. Para 9 and 10 of the judgment dated 08.03.2021 passed in W.P.No.38940 of 2017 whereunder, the respondents 5 to 8 herein are arrayed as respondents 4 to 7 in the said W.P. filed by one Garlapati Prakasham, Garlapati Ananth Kumar, and Garlapati Prashanth seeking writ of mandamus declaring the endorsement No.F2/2960/2017, dated 01.11.2017 passed by the 2nd respondent/Joint Collector refusing to entertain the revision as been illegal, arbitrary and sought to set aside the said endorsement. Paras 9 and 10 reads as under:

"9. A perusal of the record shows that the petitioners have already challenged the mutation proceedings passed by the respondent No. 3 by way of filing an appeal before the Revenue Divisional Officer and thereagainst, he has also filed a revision before the respondent No. 2, Joint Collector. For the reasons best known to the petitioners, they had subsequently withdrawn the revision. It is to be noted that the issuance of pattadar passbooks and title deeds is only a ministerial act, and the said act does not contemplate that before issuance of the pattadar passbooks and title deeds, any notice has to be issued to any person. The revenue authorities will simply issue the pattadar passbooks and title deeds to the person whose name, at the relevant point of time, is reflected in the revenue records. The petitioners having withdrawn the revision filed by petitioner No. 1 before the respondent No. 2, for whatsoever reason it may be, cannot subsequently file a second revision against the consequential proceedings of issuance of pattadar passbooks and title deeds. The petitioners, therefore,

cannot insist for a procedure to be followed, which is not there in the Act itself. The petitioner No.1 having withdrawn the earlier revision filed by him before the respondent No. 2, by virtue of a compromise, subsequently, on the premise that the terms of the compromise were not honoured, cannot file a second revision assailing the issuance of pattadar passbooks and title deeds in favour of unofficial respondents. In the absence of any provision, rule or procedure stipulated under the Act, which contemplates issuance of any notice before issuing pattadar passbooks and title deeds, the present writ petition is devoid of any merit and liable to be dismissed.

10. Accordingly, the writ petition is dismissed. However, it is left open to the petitioners to approach the competent civil Court, or any other appropriate authority, ventilating their grievance that the terms of compromise were not adhered to or that it was obtained by fraud, coercion or threat.”

12. Para 3 of the judgment dated 24th March, 2021 passed in W.P.No.6611 of 2021 filed by the said Garlapati Prakasham, Garlapati Ananth Kumar, and Garlapati Prashanth seeking a writ of Mandamus declaring the action of the respondents in not disposing of the pending appeal dated 18.09.2017 filed by the writ petitioners in respect of the land in Survey No.1019, 1077 and 1078 situated at Bhongir Village, Bhongir Mandal Yadadri Bhuvangiri District as being unreasonable and to issue a consequential directions to the District Collector, Yadadri Bhuvangiri District to consider and dispose of the appeal of the petitioners dated 18.09.2017 at an early date page 3 of the judgment dated 24th March, 2021 passed in W.P.No.6611 of 2021 read as under:

“As briefly noticed above, the order of the Revenue Divisional Officer reversing the decision of the Tahsildar dated 16.02.2006 has become final consequent to withdrawal of the revision filed by the petitioners. By proceedings of the Tahsildar, dated 13.08.2013, he was only enforcing the orders of the Revenue Divisional Officer by reflecting the name of Ande Shankar in the relevant survey numbers. This decision of the Tahsildar does not give rise to a fresh cause of action to the petitioners to once again come before this Court stating that the appellate authority is not disposing of the appeal. Even in the revenue proceedings, there must be finality to the dispute and this finality was achieved on account of withdrawal of the revision on 02.08.2013. Therefore, petitioners cannot seek to reopen by referring to the order passed by the Tahsildar on 13.08.2013, which is in compliance of the directions of the superior authority. Therefore, I do not see any merit in the writ petition. 4. The writ petition is accordingly dismissed.

13.(i) This Court opines that the petitioner herein is not a person acting bonafide and the present PIL is filed for extraneous considerations.

ii) It is necessary to take note of the meaning of expression ‘public interest litigation’. In Stroud's Judicial Dictionary, Volume 4 (IV Edition), ‘Public Interest’ is defined thus:

"Public Interest (1) a matter of public or general interest does not mean that which is interesting as gratifying curiosity or a love of information or amusement but that in which a class of the community have a pecuniary interest, or some interest by which their legal rights or liabilities are affected."

(iii) In Black's Law Dictionary (Sixth Edition), "public interest" is defined as follows:

"Public Interest - Something in which the public, the Community at large, has some pecuniary interest or some interest by which their legal rights or liabilities are affected. It does not mean anything so narrow as mere curiosity or as the interests of the particular localities, which may be affected by the matters in question. Interest shared by citizens in affairs of local, state or national government."

iv) In *S.P.Gupta and v Union of India* 1981 Suppl. SCC (1) 87, it was emphatically pointed out by the Supreme Court that the relaxation of the rule of locus standi in the field of PIL does not give any right to a busy body or meddlesome interloper to approach the Court under the guise of the public interest litigant. The Supreme Court has also left the following note of caution (SCC page 219 para 24.)

"But we must be careful to see that the member of the public, who approaches the Court in cases of this kind, is acting bona fide and not for personal gain or private profit or political motivation or other oblique consideration. The Court must not allow its process to be abused by politicians and others to delay legitimate administrative action or to gain a political objective."

v) In *State of HP v Parent of a Student of the Medical College* 1985 (3) SCC 169 it has been said by the Supreme Court that public interest litigation is a weapon which has to be used with great care and circumspection.

vi) Para 8 of the petitioner's affidavit reads as under:

"8. DOCUMENTS RELIED UPON ARE:

I submit that the following documents were examined for filing this PIL:

1. Proc.No.C/7303/2005, dated 16.02.2006 of the Mandal Revenue Officer, Bhongir.

2. Proceedings of the Revenue Divisional Officer, Bhongir in Case No.D/1429/06, dated 11.06.2007.

3. Proceedings of the Joint Collector, Nalgonda in Case No.F2/7751/2007, dated 02.08.2013.

4. Proceedings of the Tahsildar, Bhongir, vide proceeding No.A/3488/2013, dated 13.08.2013.

5. Proceeding of the Tahsildar, Bhongir, vide proc.No.A/3488/2013, dated

25.05.2014.”

vii) This Court opines that a bare perusal of the contents of Para No.8 of the affidavit filed by the writ petitioner in support of the present writ petition and the substance of the said documents referred to in the said para clearly demonstrates that the land in question is private patta land.

viii) A bare perusal of the material documents filed from page 111 onwards i.e copies of various pahanies till date, including the Form I-B issued in favour of the 6th respondent dated 23.09.2006 filed by respondent Nos.5 to 8 along with their counter clearly indicates that the names of respondents 5 to 8 as having been recorded in the pahanies as pattedars and possessors.

ix) Taking into consideration, the contentions made by the respondent No.2 in paras 6 and 7 of the counter affidavit filed by the 2nd respondent and the entire case litigation pertaining to the subject land as borne on record before the various Courts, which clearly indicates that the subject land is a private patta land from Khasra Pahani 1954-55 onwards, and further without there being any notification on record under the Evacuee Property Act, 1950 this Court opines and concludes that the present Public Interest Litigation is nothing but a malafide proceeding initiated by the petitioner herein, which is devoid of merits and is as such liable to be dismissed.

14. Accordingly, the writ petition is dismissed. Though, we were initially inclined to impose costs, however, on due consideration, we restrain ourselves from doing so.

15. Pending miscellaneous applications, if any, shall stand closed.