
(2002) 02 AP CK 0066
In the Andhra Pradesh High Court
Case No : WA No. 1099 of 2000

State of A.P. and Others

APPELLANT

Vs

J. Dilip Reddy and Another

RESPONDENT

Date of Decision : 12-02-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 2 ALD 675

Hon'ble Judges : S.R.K. Prasad, J;S.R. Nayak, J

Bench : Division Bench

Advocate : Government Pleader for Revenue, for the Appellant; Hanumantha Rao, for the Respondent

Judgement

S.R. Nayak, J.—This writ appeal is preferred by the State Government and its authorities assailing the validity of the order of the learned single Judge dated 14-6-2000 made in WP No. 2104 of 1999. The respondents herein are the writ petitioners. They filed the above writ petition for a direction to the respondents 4 and 5 to send the proposals for permission for correction of survey error in respect of Sy.No. 696 of Janwada village and to accord permission as per the orders of the District Revenue Officer dated 11-9-1998 and to correct the survey error and other required corrections in the revenue records.

2. Though the prayer was couched in the above terms, what actually the writ petitioners have sought is the enforcement of the order made by the District Revenue Officer dated 11-9-1998 bearing No. G8/3225/94. The learned single Judge disposed of the writ petition by an order dated 14-6-2000 with the following direction-

"Under these circumstances, the writ petition is disposed of directing the respondents 4 and 5 to send necessary proposals to respondents 1 and 2 for granting permission to correct the survey error in respect of Sy.No. 696 of Janwada village as found by the District Revenue Officer in the order dated 11-9-1998.

It is also directed that the authorities shall take action for fixing by all boundaries of the lands which are overlapping in both the Districts namely Ranga Reddy and Medak as per the procedure laid down under the rules in respect of land in Sy. No. 885 (old) having extent of Ac.33.36 gts."

Aggrieved by the said orders, this writ appeal has been filed by the State Government and its authorities.

3. The learned Government Pleader for Revenue assailing the order of the learned single Judge would contend that the learned single Judge ought not to have directed the appellants 4 and 5 to send the proposals to appellants 1 and 2 for granting permission to correct the survey errors in respect of Sy.No. 696 of Janwada village as found by the District Revenue Officer because, according to the learned Government Pleader, the said order made by the District Revenue Officer is one without jurisdiction. Elaborating the contention, the learned Government Pleader would contend that u/s 87 of the A.P. (Telangana Area) Land Revenue Act, 1317 F (for short "the Act"), the prescribed authority can entertain the application from the aggrieved parties only within two years after the introduction of the settlement for the correction of any wrong entry of a pattadar's name in the register referred to in the Act and in the instant case, the respondent-applicants made the applications after a long lapse of 50 years. The learned Government Pleader would also alternatively contend that even assuming that the order of the District Revenue Officer dated 11-9-1998 is the one validly made u/s 87 of the Act, there was no justification for the learned single Judge to direct the appellant authorities to take action for fixation of boundaries of the lands which are overlapping in both the District of Ranga Reddy and Medak particularly when that was not the request of the writ petitioners. Sri Hanumantha Rao, learned Counsel appearing for the respondent-writ petitioners would, on the other hand, support the order of the learned single Judge and maintain that the order of the learned single Judge would effectuate the findings recorded and the direction issued by the District Revenue Officer.

4. We do not find any merit in the first contention of the learned Government Pleader for Revenue. The District Revenue Officer by virtue of the delegation of power vide G.O. Ms. No. 563 Revenue (W) Department dated 22-5-1985 could exercise the power conferred upon the District Collector u/s 87 of the Act. Section 87 of the Act reads -

"Settlement Officer to correct clerical and other errors admitted by all parties and application for correction of name to be made within two years :

The Director of Settlements and on making over the settlement records to the Collector, the Collector may, at any time, correct or cause to be corrected any clerical errors or errors admitted by the party concerned.

The aforesaid officer shall hear all applications made within two years after the introduction of the settlement, that the correction of any wrong entry of a pattadar's name in the register referred to in the preceding section and if

satisfied about the error whether such error has been made through negligence, fraud, or collusion shall correct the same, notwithstanding that the party concerned does not admit the error, but no such application shall be entertained after two years, unless reasonable cause is shown to the said officer for the delay, and in such cases if any error is proved it shall not be corrected without obtaining the sanction of the Government."

5. No doubt, the first part of the 2nd paragraph of the section provides that applications have to be made by the aggrieved parties within two years after the introduction of the settlement for correction of any wrong entry of pattadar's name etc. However, the same paragraph also provides that the prescribed officer, in the instant case, the District Revenue Officer, could also entertain an application filed by an aggrieved party even beyond two years after the introduction of (he settlement provided such party shows reasonable cause for the delay. Therefore, it cannot be said that the District Revenue Officer, who exercised the power of the District Collector u/s 87 of the Act, inherently lacks jurisdiction to entertain any application filed by an aggrieved party after the expiry of two years from the date of introduction of the settlement and that the order made by the District Revenue Officer on 11-9-1998 u/s 87 of the Act null and void ab initio as contended by the learned Government Pleader.

6. It needs to be emphasized that the order of the District Revenue Officer dated 11-9-1998 is a statutory order and if that order offends the interest of the State or State Authorities, the only course open to them is to assail the validity of the same by a mode known to the law, in an appropriate legal proceeding. In this case, the State Government and its authorities have not assailed the correctness of the order of the District Revenue Officer made u/s 87 of the Act and consequently the order is allowed to become final. If a statutory order stands and operates, the legal consequences flowing from such order should be ordered to be performed or complied with by all the concerned including the statutory and the executive authorities of the State and it is not for them to contend that they would not obey the orders made by the statutory authorities.

7. However, we find some force in the alternative contention of the learned Government Pleader that the learned single Judge in directing the appellate authorities to take action for fixation of the boundaries of the lands, which are overlapping in both the Districts of Ranga Reddy and Medak, has granted a relief which is not sought in the writ petition. No doubt, this particular relief now granted by the learned single Judge is not specifically sought by the petitioners in the writ petition. However, it is well-settled that High Court while exercising jurisdiction under Article 226 of the Constitution can mould the relief and issue appropriate orders to meet and suit the cause and ends of justice. Therefore, the contention of the learned Government Pleader that the learned Judge has granted a relief, which is not sought in the writ petition, is not acceptable to us, because such a power to mould reliefs is always available to a Judge or Bench exercising the power under Article 226 of the Constitution of India. However, the

next question to be considered is whether there is any justification for issuance of a direction to the appellate authorities to fix all the boundaries of the lands which are overlapping in both the Districts of Ranga Reddy and Medak. Undoubtedly, the order made by the District Revenue Officer dated 11-9-1998 is not the end of the matter and this has to be followed by the further proceedings to be taken by the appellate authorities in terms of the statute. It is not that the appellate authorities in pursuance of the order made by the District Revenue Officer dated 11-9-1998 have already taken some action and that action is disadvantageous or prejudicial to the interest of the writ petitioners and therefore, this Court should review the validity and correctness of such order under Article 226 of the Constitution of India. That stage has not yet reached. If that is so, it is not appropriate for the Court to circumscribe or define the parameters or limitations of power of the appellate authorities as an advisory body even before the statutory authorities exercise their power and determine the rights and liabilities of the litigating parties. Looking from that angle, with respect, we are of the considered opinion that the above particular direction of the learned Judge to which we have made reference is neither warranted nor justified. By saying so, we cannot be understood to have said that the appellate authorities need not fix the boundaries of the lands which are overlapping in both the Districts of Ranga Reddy and Medak. What we would like to emphasise is that in pursuance of the order made by the District Revenue Officer dated 11-9-1998, the appellate authorities have to take further action strictly in accordance with law and this Court cannot preempt their discretion and power by issuing directions as to how they should exercise their powers.

8. In the result, the writ appeal is disposed of subject to the above observations. The order of the learned signal Judge impugned in this writ appeal shall stand modified accordingly. There shall be no order as to costs.