

[3393]

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

FRIDAY, THE TWENTY SIXTH DAY OF JULY
TWO THOUSAND AND TWENTY FOUR

PRESENT

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SRI JUSTICE ANIL KUMAR JUKANTI**

WRIT APPEAL NO: 243 OF 2016

Writ Appeal under clause 15 of the Letters Patent preferred against the order dated 07.01.2016 in W.P.No.19246 of 2012 on the file of the High Court.

Between:

Kondapalli Raghu Ram Reddy, S/o Damodhar Reddy, Age 51 years, Occ: Business, R/o 6-1-265, VDO Colony, Khanapur Haveli, Khammam District.

...APPELLANT/PETITIONER

AND

1. The Joint Collector, Warangal, Warangal District.
2. The Revenue Divisional Officer, Mahaboobabad, Warangal District.
3. The Tahasildar, Kuravi (M), Mahaboobabad, Warangal District.
4. Koneru Bhanu, S/o Rama Rao, Age about 53 years, Occ Business, R/o. Hyderabad, Rep by its SPA Holder, K. Karunakar Reddy, S/o KLN Reddy, Aged about 55 years R/o. 1-2-90/4, Street No.1 Kakatiya Nagar, Hubsiguda, Hyderabad.

...RESPONDENTS/RESPONDENTS

I.A. NO: 1 OF 2016(WAMP. NO: 778 OF 2016)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings pursuant to order Dated 07.01.2016 in W.P 19246/2012.

**Counsel for the Appellant: SRI P. SRIDHAR RAO
Counsel for the Respondent Nos. 1 to 3: GP FOR REVENUE
Counsel for the Respondent No.4: SRI A. CHANDRA SHAKER**

The Court made the following: JUDGMENT

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI

Writ Appeal No.243 of 2016

JUDGMENT: (Per the Hon'ble the Chief Justice Alok Aradhe)

Mr. P.Sridhar Rao, learned counsel for the appellant.

Mr. A.Chandra Shaker, learned counsel for respondent
No.4.

2. In this intra court appeal, the appellant has assailed the validity of the order dated 07.01.2016, passed by a learned Single Judge, by which the writ petition preferred by the appellant *viz.*, W.P.No.19246 of 2012 has been dismissed.

3. Facts giving rise to filing of this appeal briefly stated are that the appellant *vide* unregistered sale deed executed in the year 2002, purchased land admeasuring Acs.23.09 guntas in Survey No.495/B of Kampally Village, Kuravi Mandal, Warangal District, from one Akula Narsamma. Thereafter, on 14.11.2002, pattadar pass books and title deeds were issued in favour of the appellant. Out of the aforesaid land

admeasuring Acs.23.09 guntas, land admeasuring Acs.6.00 guntas was sold to one Kankanala Subrahmanyam and pattadar pass books and title deeds were also issued in favour of the said person. The appellant claims to be the owner and in possession of land admeasuring Acs.17.09 guntas.

4. One Koneru Bhanu (hereinafter referred as 'respondent No.4') filed an application on 08.01.2010 before the Minister of Mines and Geology and thereafter, filed a civil suit *viz.*, O.S.No.8 of 2010 along with an application *viz.*, I.A.No.22 of 2010 before the Junior Civil Judge's Court, Mahaboobabad, seeking injunction. However, the aforesaid application seeking injunction was rejected.

5. Thereafter, respondent No.4 filed an appeal under Section 5-B of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (hereinafter referred to as 'the 1971 Act') before the Revenue Divisional Officer, Mahaboobabad (hereinafter referred to as 'RDO') seeking

cancellation of pattadar pass books and title deeds issued in favour of the appellant. The RDO *vide* order dated 22.06.2010 cancelled the pattadar pass books and title deeds issued in favour of the appellant. The aforesaid order was assailed by the appellant in a revision before the Joint Collector, Warangal District (hereinafter referred to as 'the Joint Collector').

6. During the pendency of the revision before the Joint Collector, appellant filed W.P.No.16719 of 2010 before this Court, which was disposed of by a learned Single Judge by order dated 07.10.2010 with the direction to the Joint Collector to decide the revision within a period of six weeks. The Joint Collector, by an order dated 16.07.2011, dismissed the revision. The appellant challenged the order passed by the RDO dated 22.06.2010 and the Order passed by the Joint Collector dated 16.07.2011 under the 1971 Act in writ petition No.19246 of 2012. The said writ petition has been dismissed by a learned Single Judge by order dated 06.01.2016. Hence, this appeal.

7. Learned counsel for the appellant submitted that the learned Single Judge ought to have appreciated that the appeal under Section 5-B of the 1971 Act was not maintainable. It is contended that the appeal was not accompanied by an application for condonation of delay and the appeal, therefore, could not have been entertained. It is urged that respondent No.4 had no right to file appeal as the lands held by the appellant and respondent No.4 are distinct and different. In support of his submission, reliance has been placed on a Division Bench decision of this Court dated 24.07.2015 in W.P.No.21689 of 1999 (**Ratnamma v. Revenue Divisional Officer**).

8. On the other hand, learned counsel for respondent No.4 has supported the order passed by the learned Single Judge and has contended that the order of regularization passed by the Mandal Revenue Officer (hereinafter referred to as 'the MRO') was *ex facie* bad in law and the MRO has no jurisdiction

to regularize the land on the basis of an unregistered sale deed. Attention of this Court has been invited to the findings recorded by the learned Single Judge and it is contended that learned Single Judge, by issuing valid and cogent reasons, has concluded that the appeal under Section 5-B of the Act was maintainable. Lastly, it is contended that the order passed by the learned Single Judge does not call for any interference in this intra court appeal.

9. We have considered the rival submissions made on both sides and have perused the record.

10. Admittedly, the MRO has no authority to regularise the land on the basis of an unregistered sale deed in view of G.O.Ms.No.1765 Revenue dated 06.10.2005. It is pertinent to note that the unregistered sale deed was executed in the year 2002 in respect of khata No.610 whereas in pattadar pass book, khata number has been referred to as '721'. No explanation is forthcoming on behalf of the appellant with

regard to the discrepancy in khata numbers as mentioned in the unregistered sale deed and the pattadar pass book.

11. The learned Single Judge, after perusal of memo of appeal, has recorded a finding that respondent No.4 was aggrieved by the amendments/entries made in the record of rights and therefore, held that the appeal under Section 5-B of the 1971 Act was maintainable. It has further been held that the appeal has been filed after the order impugned in the appeal has come to the notice of respondent No.4 and therefore, the same is within limitation. The findings recorded by learned Single Judge do not suffer from any infirmity warranting interference of this Court in this intra court appeal.

12. Before proceeding further, it is apposite to take note of the well settled legal principle that if quashing/setting aside of an order revives another pernicious or wrong or illegal order, the writ court should not interfere in the matter and should refuse to exercise its discretionary power under Article 226 of

the Constitution of India (see *Al-Can Export Private Limited v. Prestige H.M.Polycontainers Limited*¹, *Gadde Venkateswara Rao v. Government of Andhra Pradesh*², *Maharaja Chintamani Saran Nath Shahdeo v. State of Bihar*³, *M.C.Mehta v. Union of India*⁴, *Mallikarjuna Mudhagal Nagappa v. State of Karnataka*⁵, *Chandra Singh v. State of Rajasthan*⁶ and *Raj Kumar Soni v. State of U.P.*⁷)

13. In the instant case, if this Court Interferes with the order passed by the authorities under the 1971 Act, the same would result in revival of an illegal order passed by the MRO. Therefore, on this ground also, no interference is called for with the impugned order dated 07.01.2016, passed by the learned Single Judge in W.P.No.19246 of 2012.

¹ 2024 SCC OnLine SC 1679

² AIR 1966 SC 828

³ (1999) 8 SCC 16 = AIR 1999 SC 3609

⁴ (1999) 6 SCC 237 = AIR 1999 SC 2583

⁵ (2000) 7 SCC 238 = AIR 2000 SC 2976

⁶ (2003) 6 SCC 545 = AIR 2003 SC 2889

⁷ (2007) 10 SCC 635

14. For the aforementioned reasons, we do not find any ground to differ with the view taken by the learned Single Judge. However, the appellant shall be at liberty to institute a civil proceeding, if so advised.

15. In the result, the Writ Appeal is dismissed. No costs.

As a sequel, miscellaneous petitions, pending if any, stand closed.

SD/- B. SATYAVATHI
DEPUTY REGISTRAR

SECTION OFFICER

//TRUE COPY//

To,

1. One CC to SRI P. SRIDHAR RAO, Advocate [OPUC]
2. Two CCs to GP for Revenue, High Court for the State of Telangana at Hyderabad [OUT]
3. One CC to SRI A. CHANDRA SHAKER, Advocate [OPUC]
4. Two CD Copies

MP
GJP



HIGH COURT

DATED: 26/07/2024

JUDGMENT

WA.No.243 of 2016



DISMISSING THE WRIT APPEAL
WITHOUT COSTS

②
10/09/24
bk