

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

**TUESDAY, THE FIRST DAY OF OCTOBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J SREENIVAS RAO**

WRIT APPEAL NO: 1006 OF 2013

Writ Appeal under clause 15 of the Letters Patent against order dated 25-02-2011 in W.P.No.20416 of 2008 on the file of the High Court.

Between:

Sri Akanti Mallesha, S/o Rajappa, age 49 years, Occ Business Saraswathinagar, Saidabad, Hyderabad, Now presently residing at Door No.16-1-27/BC/1, Jayanagar, Saidabad, Hyderabad

...APPELLANT

AND

1. The Joint Collector(I) R.R District, office at Lakdikapool, Hyderabad
2. The Special Grade Deputy Collector, and Revenue Divisional Officer(East Division), Ranga Reddy District
3. The Deputy Collector and Tahsildar, Saroornagar(M) Ranga Reddy District
4. Smt Madhavaram Sujatamma, W/o Gopal Rao, Occ Household, R/o H.No.17-1-391/T/185, Saraswathinagar, Saidabad, Hyderabad

...RESPONDENTS

I.A. NO: 2 OF 2012(WAMP. NO: 3290 OF 2012)

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 set-aside the order passed in WASR.No.52401/2011, dt.2-12-2011 by permitting the petitioner to receive the record of returned writ appeal and represent the same after complying the objections therein.

I.A. NO: 1 OF 2013(WAMP. NO: 2094 OF 2013)

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 suspend the operation of the order in W.P.No.20416 of 2008 dated 25-02-2011 passed by the learned Single Judge of this Hon'ble Court pending disposal of the above Writ Appeal.

I.A. NO: 2 OF 2014(WAMP. NO: 1318 OF 2014)

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 receive Addl. Material papers as per list enclosed, in the above Writ appeal, in the interest of justice.

**Counsel for the Appellant : SRI G.VIDYA SAGAR, Sr.COUNSEL,
rep., SRI MOHD SUBHAN PASHA**

**Counsel for the Respondents No.1to3 : SRI KATRAM MURALIDHAR REDDY,
GP FOR REVENUE**

**Counsel for the Respondent No.4 : SRI P.VENUGOPAL, Sr.COUNSEL, rep.,
SRI G.PURUSHOTHAM REDDY**

The Court made the following: JUDGMENT

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SRI JUSTICE J.SREENIVAS RAO**

WRIT APPEAL NO. 1006 OF 2013

JUDGMENT: *(per the Hon'ble Sri Justice J.Sreenivas Rao)*

This intra court appeal is filed aggrieved by the orders dated 25.02.2011 passed by the learned Single Judge of the erstwhile High Court of Judicature of Andhra Pradesh at Hyderabad, in allowing the Writ Petition No.20416 of 2008 filed by the respondent No.4 by setting aside the order passed by the respondent No.1-Joint Collector (I), Ranga Reddy District, dated 06.09.2008.

2. Heard Sri G.Vidya Sagar, learned Senior Counsel, representing, Sri Mohd. Subhan Pasha, learned counsel for the appellant and Sri Katram Muralidhar Reddy, learned Government Pleader appearing on behalf of respondent Nos.1 to 3 and Sri P.Venugopal, learned Senior Counsel, representing, Sri G.Purushotham Reddy, learned counsel appearing on behalf of respondent No.4.

3. **BRIEF FACTS OF THE CASE:**

3.1 In order to appreciate the grievance of the appellant, relevant facts need to be mentioned, which are as follows:

The appellant is claiming that he is owner of the agriculture land to an extent of Ac.3-30 guntas in Sy.No.589/3, Ac.0-03 guntas in Sy.No.590/2, and Ac.0-02 guntas in Sy.No.591/2, total extent comes to Ac.3.35 guntas, situated at Nadergul Village, Saroornagar Mandal, Ranga Reddy District and the same was purchased through registered sale deeds bearing document Nos.2094 dated 25.02.1980 and 2095 of 1980 dated 25.02.1980 respectively and his name was mutated in the revenue records. Respondent No.4, basing on the simple sale deed dated 05.12.1980 got regularization proceedings under the provisions of Section 5-A of the Andhra Pradesh/Telangana Rights in Land and Pattadar Pass Books Act, 1971, (hereinafter called as 'ROR Act') from respondent No.3 vide proceedings No.A/1075/92, dated 07.02.1994 behind back of the appellant, in respect of the above said property. Immediately the appellant filed appeal under Section 5-B of the ROR Act, before respondent No.2 questioning the above said proceedings. However, respondent No.2 without properly considering the same, dismissed the appeal on the ground of limitation by its order dated 23.07.2007. Questioning the same, appellant filed revision petition before respondent No.1 under Section 9 of the ROR Act and revisional authority by setting aside the orders of respondent Nos.2 and 3 directed both the parties to approach the Civil Court to prove their title by its order

dated 06.09.2008. Aggrieved by the above said order dated 06.09.2008 passed by respondent No.1, respondent No.4 has filed Writ Petition No.20416 of 2008. Learned Single Judge allowed the writ petition by setting aside the order of respondent No.1 dated 06.09.2008. Thus, the appellant filed the present writ appeal.

4. Contentions of learned Senior Counsel for the appellant:

4.1 Learned Senior Counsel contended that appellant had purchased the subject property through registered sale deed documents bearing Nos.2094 and 2095 of 1980, dated 25.02.1980 respectively, and since then he has been in possession and enjoyment of the same and his name was continuing in the revenue records and the appellant mortgaged the said property with A.P. Mahesh Cooperative Urban Bank Limited, as a collateral security. Respondent No.4 basing on the simple sale deed dated 05.12.1980, submitted application before respondent No.3 seeking regularization. Respondent No.3 without following the mandatory procedure prescribed under the ROR Act, Andhra Pradesh/Telangnan Rights in Land and Pattadar Pass Books Rules, 1989 (hereinafter called as 'Rules') validated the transfer of the lands in favour of respondent No.4, though she has not been in possession of the subject property and respondent No.3 is not

having authority, power or jurisdiction to regularize the simple sale deed exercising the powers conferred under the ROR Act.

4.2 He vehemently contended that respondent No.4 is not in possession of the subject property, as on the date of making application seeking regularization of the simple sale deed dated 05.12.1980 and she has not produced any record and the appellant's name is only continued in the revenue records. Hence, respondent No.3 is not having authority or power to regularize the simple sale deed dated 05.12.1980 under the ROR Act.

4.3 He also contended that the appellant mortgaged the subject property with Andhra Pradesh Mahesh Cooperative Urban Bank Limited, as a collateral security and once the said mortgage is in existence, question of alienation of the subject property in favour of respondent No.4 does not arise.

4.4 Learned Senior Counsel further contended that the appellant is disputing the alleged simple sale deed dated 05.12.1980 and in such circumstances, respondent No.4 ought to have approached the competent Civil Court and established her claim. When the disputed questions of facts and title are involved, the revenue authorities are not having authority or jurisdiction to decide the same. Hence, respondent No.1 rightly

set aside the order of respondent Nos.2 and 3 and directed the parties to approach the Civil Court by its order dated 06.09.2008. Learned Single Judge without properly considering the material on record and provisions of the ROR Act and Rules, allowed the writ petition by setting aside the well considered order of the respondent No.1.

5. **Contentions of learned Senior Counsel for respondent No.4:**

5.1 Learned Senior Counsel submits that the appellant executed simple sale deed in favour of respondent No.4 in respect of the subject property by receiving the entire sale consideration on 05.12.1980 and delivered the physical possession of the same and since then she has been in possession and enjoyment of the subject property.

5.2 He further contended that as per the provisions of the ROR Act, respondent No.4 has made an application seeking validation of the simple sale deed dated 05.12.1980 under the provisions of Section 5-A of the ROR Act. Respondent No.3 after following the due procedure as contemplated under the provisions of the ROR Act and Rules made thereunder, initiated the proceedings and the appellant appeared before respondent No.3 and he had given statement that he has no objection for validation of the above said

document in favour of respondent No.4 and respondent No.3 issued rightly validated the simple sale deed after collecting stamp duty and registration charges, issued the 13-B and 13-C certificates on 07.02.1994. Pursuant to the same, the name of respondent No.4 was mutated in the revenue records and pattadar passbook and title deed were issued in her favour.

5.3 He further contended that respondent No.4 has discharged the loan amount to A.P. Mahesh Cooperative Urban Bank Limited. The appellant filed appeal before respondent No.2 after lapse of more than 11 years questioning the validation proceedings issued by respondent No.3, without giving any reasons for the said delay. The appellate authority-respondent No.2 rightly dismissed the appeal. Revisional authority-respondent No.1 without verifying the records and without considering the contentions of the respondent No.4 has set aside the orders of respondent Nos.2 and 3. Learned Single Judge after considering the contentions of the respective parties and after due verification of the material evidence on record, allowed the writ petition by giving cogent reasons by its order dated 25.02.2011 and there are no grounds in the writ appeal to interfere with the impugned order of the learned Single Judge.

Analysis:

6. Having considered the rival submissions made by the respective parties and after perusal of the material available on record, it reveals that it is an undisputed fact that the appellant is owner of the subject property to an extent of Ac.3-30 guntas in Sy.No.589/3, Ac.0-03 guntas in Sy.No.590/2, and Ac.0-02 guntas in Sy.No.591/2, total extent comes to Ac.3.35 guntas, situated at Nadergul Village, Saroornagar Mandal, Ranga Reddy District. Respondent No.4 is claiming rights over the subject property through simple sale deed dated 05.12.1980 which is said to have been executed by the appellant. It further reveals that respondent No.4 has submitted application before respondent No.3 seeking validation/regularization of the simple sale deed dated 05.12.1980 invoking the provisions of Section 5-A of the ROR Act.

7. It is relevant to extract Section 5-A of the ROR Act and Rule 22 of Rules, which reads as follows:

5A. Regularisation of certain alienations or other transfers of lands.

(1) Notwithstanding anything contained in this Act, the Transfer of Property Act, 1882, the Registration Act, 1908 or any other law for the time being in force, [where a person is an occupant] by virtue of an alienation or transfer made or effected otherwise than by registered document, the alienee or the transferee may, within such period as may be prescribed, apply to the Mandal

Revenue Officer for a certificate declaring that such alienation or transfer is valid.

(2) On receipt of such application, the Mandal Revenue Officer shall after making such enquiry as may be prescribed require the alienee or the transferee to deposit in the office of the Mandal Revenue Officer an amount equal to the registration fees and the stamp duty that would have been payable had the alienation or transfer been effected by a registered document in accordance with the provisions of the Registration Act, 1908 as fixed by the registering officer on a reference made to him by the Mandal Revenue Officer on the basis of the value of the property arrived at in such manner as may be prescribed:

(3) Nothing contained in sub-section (1) and sub-section (2) shall be deemed to validate any alienation where such alienation is in contravention of the provisions of the Telangana Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, (Act 1 of 1973) the Urban Land (Ceiling and Regulation) Act, 1976, (Central Act 33 of 1976) the Telangana Scheduled Areas Land Transfer Regulation, 1959 (Regulation 1 of 1959) and the Telangana Assigned Lands (Prohibition of Transfers) Act, 1977 (Act 9 of 1977).

(4) The Mandal Revenue Officer on deposit of an amount specified in sub-section (2), shall issue a certificate to the alienee or the transferee declaring that the alienation or transfer is valid from the date of issue of certificate and such certificate shall, notwithstanding anything in the Registration Act, 1908 be evidence of such alienation or transfer as against the alienor or transferor or any person claiming interest under him.

(5) The recording authority, shall on the production of the certificate issued under sub-section (2) make an entry in the pass book to the effect that the person whose name has been recorded as an occupant is the owner of the property.

22 "Regularization of certain alienation or transfers of land:

(1) The Mandal Revenue Officer shall issue a general Notification in Form No. IX, calling for applications from the persons who are recorded as occupants in Adangal/Pahani Patrika or in Record of Rights prepared earlier by virtue of an alienation or transfer made or effected otherwise than by registered document for declaring such alienation as valid.

(2) The alienee or transferee shall file application in Form-X on or before 31.03.2008 on the notification issued under sub-rule(1), to the Mandal Revenue Officer:

(3) On receipt of the application under sub-section (2) of Section 5-A of the Act, the Mandal Revenue Officer shall issue notice to the alienor or transferor in Form No. XI specifying therein the date on which and the time at which he proposes to enquire into the application. He shall also cause to issue a notice in Form No. XII to all other persons believed to be interested in the land specifying therein, date, time and place at which he proposes to enquire into the application. Only unregistered documents shall be considered under Section 5-A of the Act.

(4) On the day so appointed or any other day to which enquiry may be adjourned by him, the Mandal Revenue Officer shall after hearing the parties and on examining

their documents and witnesses, if any, and after taking such further evidence as he may consider necessary to satisfy himself that the alienation or transfer is not in contravention of any of the provisions of the Act referred to in Rule 9(i)(a)(iv) complete the enquiry.

(5) (i) After completion of the enquiry under sub-rule (4) above, the Mandal Revenue Officer shall require the alienee or the transferee under Section 5(A) of the Act, to deposit through a challan in the treasury an amount equal to the registration fees and stamp duty that would have been payable had the alienation or transfer been effected by a registered document in accordance with the provisions of the Indian Registration Act, 1908 as fixed by the registering officer on a reference made to him by the Mandal Revenue Officer in Form No. XIII-A, on the basis of the value of the property arrived, within the time fixed by the Mandal Revenue Officer, not exceeding one month from the date of the communication and receipt of the order:

(6) The Recording Authority shall on production of the certificate issued under sub-section (4) of Section 5-A of the Act make an entry in the Record of Rights in Forms 1 and 1B to the effect that the person whose name has been recorded as an occupant is the owner of the property from the date of the issue of the said certificate. The Recording Authority and the Mandal Revenue Officer shall make necessary entries in the Record of Rights in land in Forms 1 and 1B under proper attestation and referencing to files of the Mandal Revenue Officer.

(7) Thereafter a [title deed and pass book] shall be issued to the occupant in the category of owner-pattadar.”

8. Respondent No.3, while exercising the powers conferred under the above said provisions, had initiated the proceedings and issued notice to the both the parties and the appellant had appeared before respondent No.3 and had given statement on 02.02.1994 stating that he has no objection for validation of the simple sale deed and he had already received the entire sale consideration and delivered the possession of the said land. The above said statement reads as follows:

“Statement of Sri A.Mallesha S/o A.Rajappa, aged about 38 years, occ: business R/o Nalla Kunta, Hyderabad States on oath that I am the patteddar of S.No.589/3 measuring Ac.3.30 guntas and 590/2 0.03 and 591/2, 0.02 situated at Nadergul Village. I have sold the said land to Smt. Madhavaram Sujathamma W/o Gopal Rao in the year 1980. I handed over the possession to the purchaser. Now the purchaser is in possession of the land. I have received sale consideration executed a sada sale paper. I have no objection if the said survey numbers are transferred in the name of the purchaser.

Read over to the deponent admitted to be correct.

Sd/-xxx

Recorded by me
Sd/- 2.2.94”

9. Thereafter, respondent No.3, had issued regularization proceedings vide Proc. No.A/1075/92 dated 03.02.1994 directing respondent No.4 to pay Rs.4,250/- towards stamp duty and registration charges. It appears from the records that respondent No.4 has paid the said amount and respondent No.3 had issued Form 13-B & 13-C certificates, in her favour. Pursuant to the same, the name of respondent No.4 was mutated in the revenue records and pattadar passbook and title deed were issued to her in respect of subject property.

10. Aggrieved by the above said validation proceedings of respondent No.3, the appellant filed appeal before respondent No.2 invoking the provisions of Section 5-B of the ROR Act after lapse of more than 11 years. Respondent No.2 dismissed the appeal vide proceedings No.A2/3590/2005, dated 23.07.2007 and passed the following order:

"A perusal of the lower court record revealed that the notice was issued by the then MRO, Saroornagar in Form-11 and served on the appellant duly obtaining his signature. During the course of enquiry in connection with regularization of the unregistered sale deed executed by the appellant, the statement of the appellant was recorded by the MRO on 2-2-1994 and the appellant has also appended his signature in the said statement saying that he had no objection for

transfer of property in the name of the respondent No.2. Therefore, the contention of the appellant stating that he was not given any notice is not correct and that it is not based on record. Above all the appeal filed by the appellant is barred by limitation as it has not been filed within the time stipulated under section 5-B of the Act. Under these circumstances the appeal is not maintainable and accordingly it is dismissed.”

11. Questioning the same, appellant has filed Revision under Section 9 of the ROR Act before respondent No.1. Respondent No.1 allowed the revision petition on the ground that as per the judgments, when the lands are mortgaged, if any sale deed is executed by any party, the said sale is illegal and when there is a title dispute and the execution of private sale deeds are in question, respondent Nos.2 and 3 should not have passed orders and both the parties are directed to approach the Civil Court to prove their title, especially respondent No.1 has not mentioned any judgment in the said order.

12. Aggrieved by the same, respondent No.4 filed Writ Petition No.20416 of 2008 and the learned Single Judge after considering the contentions of the respective parties and after going through the material available on record and also by considering the provisions of the ROR Act and Rules including law, allowed the

writ petition by giving cogent reasons in respect of each of the contentions raised by the parties.

13. It is pertinent to mention that the specific claim of respondent No.4 that pursuant to the simple sale deed dated 05.12.1980, the appellant delivered the physical possession of the subject property and since then she has been in possession and enjoyment of the same and she constructed a poultry shed in the said lands under the name and style of 'Venkataramana Poultry Farms' duly obtaining permission from the Gram Panchayat and the appellant himself has given a statement before respondent No.3 that he sold the subject land in favour of respondent No.4 in the year 1980 by receiving entire sale consideration and also delivered the possession of the property and he is not having any objection to transfer the said land in her name. Hence, the contention of the learned Senior Counsel for the appellant that the respondent No.4 has not produced any evidence that she is in possession of the subject property, on the other hand, appellant's name is continued in the revenue records and respondent No.3 is not having authority or power issue the validation proceedings under Section 5-A of the ROR Act in favour of respondent No.4, is not tenable under law.

14. The contention of learned Senior Counsel for the appellant that once the subject property is under mortgage, any subsequent sale transaction is not valid under law, is not tenable on the ground that the specific claim of respondent No.4 is that the appellant has not informed about the creation of simple mortgage in favour of A.P Mahesh Cooperative Urban Bank Limited and subsequently respondent No.4 discharged the said mortgage in respect of the said property.

15. It is also pertinent to mention that as per the provisions of the ROR Act and Rules, the purchaser who is claiming rights over the property through simple sale deed, is not entitled to seek mutation of his/her name in revenue records and also issuance of pattadar pass book and title deed, unless and until the said document is validated/regularized under the Act. In the case on hand, subsequent to validating the simple sale deed dated 05.12.1980 by respondent No.3 including issuance of Form-13-B and 13-C certificates dated 07.02.1994, the name of respondent No.4 was mutated in the revenue records and issued pattadar pass book and title deed in her favour.

16. It is already stated supra that learned Single Judge after considering the contentions of the respective parties and also the provisions of the ROR Act and Rules made thereunder and also

law, has rightly allowed the writ petition, by setting aside the order passed by respondent No.1 and upholding the validation/regularization of the simple sale deed dated 05.12.1980 in favour of respondent No.4, which was confirmed by the respondent No.2 *vide* order dated 23.07.2007.

CONCLUSION

17. For the aforesaid reasons, we do not find any ground to differ with the view taken by the learned Single Judge.

18. In the result, the writ appeal fails and is hereby dismissed. There shall be no order as to costs.

19. Miscellaneous applications, if any, pending shall stand closed.

**SD/-M.MANJULA
DEPUTY REGISTRAR**

//TRUE COPY//

SECTION OFFICER

**ONE FAIR COPY TO THE HON'BLE CHIEF JUSTICE ALOK ARADHE
(FOR HIS LORDSHIP'S KIND PERUSAL)**

&

**ONE FAIR COPY TO THE HON'BLE SRI JUSTICE J SREENIVAS RAO
(FOR HIS LORDSHIP'S KIND PERUSAL)**

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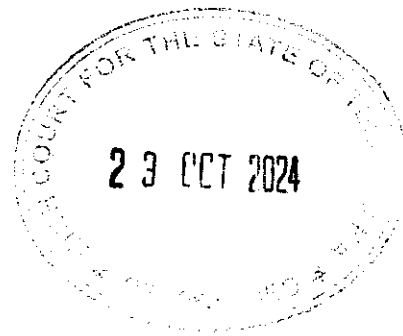
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5. The Special Grade Deputy Collector, and Revenue Divisional Officer(East Division), Ranga Reddy District
6. The Deputy Collector and Tahsildar, Saroomagar(M), Ranga Reddy District
7. One CC to SRI MOHD SUBHAN PASHA, Advocate. [OPUC]
8. Two CCs to GP FOR REVENUE, High Court for the State of Telangana.
9. One CC to SRI G.PURUSHOTHAM REDDY, Advocate. [OPUC]
10. Two CD Copies.

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HIGH COURT

DATED:01/10/2024



JUDGMENT

WA.No.1006 of 2013

**DISMISSING THE WRIT APPEAL
WITHOUT COSTS**

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